

Senate Bill 275

By: Senator Carter of the 42nd

A BILL TO BE ENTITLED
AN ACT

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

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

CREATION, INCORPORATION, POWERS

SECTION 1.01.

Incorporation.

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

SECTION 1.02.

Corporate boundaries.

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

SECTION 1.03.

Powers and construction.

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

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city. These powers shall include, but not be limited to, the following:

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

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

(3) Building regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, and heating and air conditioning codes; and to regulate all housing and building trades to the extent permitted by general law;

(4) Business regulation and taxation. To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades, and professions as authorized by Title 48 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(5)(A) Condemnation. To condemn property inside the corporate limits of the city for present or future use and for any public purpose deemed necessary by the city council utilizing procedures enumerated in Title 22 of the O.C.G.A. or such other applicable laws as are or may hereafter be enacted; and

(B) The municipality shall have the right to condemn and cause to be remediated or removed any building, structure, or existing condition within its corporate limits that is dangerous to life, limb, or property, by reasons of decay, dilapidation, or unsanitary condition. Nothing in this subparagraph shall be construed to relieve the municipality of any duty to give owners or interested persons reasonable notice and opportunity to remedy the situation. Nothing in this subparagraph shall be construed as relieving the municipality of liability to any interested person for damages to person or property taken or destroyed in furtherance of this subparagraph. This subparagraph shall not be construed as authorizing the doing of any act or thing contrary to the Constitution of this state and the policy of the general laws of this state. The municipality shall have authority to adopt reasonable ordinances and resolutions for the purpose of carrying out this subparagraph;

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

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

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

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

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

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

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

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

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

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

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

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

(18) Municipal agencies and delegation of power. To create, alter, or abolish departments, boards, offices not specified in this charter, commissions, authorities, and agencies of the city, and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

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

(20) Municipal property ownership. To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the property limits of the city;

(21) Municipal property protection. To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(22) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose of public utilities including, but not limited to, a system of waterworks, sewers and drains, sewage disposal, storm-water management, gasworks, electricity generating

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The millage rate imposed for ad valorem taxes on real property shall not exceed 3.04 unless a higher limit is recommended by resolution of the city council and approved by a majority vote of the qualified voters of the City of Lavista Hills voting on the issue in a referendum; and

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

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

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

(40) Tourism, conventions, and trade shows. To provide for the structure, operation, or management of the Lavista Hills Convention and Visitors Bureau created pursuant to Section 1.05 of this charter and to authorize the City of Lavista Hills to contract with

private sector nonprofit organizations or other governmental agencies to promote tourism, conventions, and trade shows;

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

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

SECTION 1.04.

Exercise of powers.

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

SECTION 1.05.

Tourism, conventions, and trade shows.

The Lavista Hills Convention and Visitors Bureau is hereby created.

ARTICLE II

GOVERNMENT STRUCTURE, ELECTIONS, AND LEGISLATIVE BRANCH

SECTION 2.01.

City council creation; number; election.

(a) The legislative authority of the government of the City of Lavista Hills, except as otherwise specifically provided in this Act, shall be vested in a city council of which the mayor shall be a voting member.

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

(2) There shall be six council districts, designated Council Districts 1 through 6, as described in Appendix B of this Act, which is attached to and made a part of this charter of the City of Lavista Hills.

(3) One councilmember shall be elected from each of the six council districts and shall hold Council Posts 1, 2, 3, 4, 5, and 6, respectively. Each person desiring to offer as a candidate for councilmember for such posts shall designate the council post for which he or she is offering. Councilmembers for such posts shall be elected by a majority vote of the qualified electors of the respective council districts voting at the elections of the city. In the event that no candidate for a council post obtains a majority vote of the qualified electors of the council district voting in the election, a run-off election shall be held. The candidates receiving the two highest numbers of votes in the election for such council post shall be included in the run-off election. The person receiving the highest number of votes of the qualified electors of the council district voting at such run-off election shall be elected. Each candidate for election to the city council must reside in the district he or she seeks to represent.

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

(d) In order to assure staggered elections of the councilmembers, in the first election of the city council, the terms for the candidates elected for Council Posts 1, 3, and 5 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2015, as provided in subsection (b) of Section 2.02. The terms for the candidates elected for Council Posts 2, 4, and 6 shall expire upon the administration of the oath of office to their successors elected in the regular elections held in November, 2017, as provided in subsection (b) of Section 2.02. Thereafter, a successor to

295 each councilmember shall be elected at the November election immediately preceding the
296 end of such councilmember's term of office and the term of each councilmember shall expire
297 upon the administration of the oath of office to his or her successor.

298 (e) With the exception of the initial term of office, the mayor of the City of Lavista Hills,
299 with the powers and duties specified herein, shall be elected to a term of four years and until
300 his or her successor is elected and qualified. The mayor shall be elected by a majority vote
301 of the qualified electors of the city at large voting at the elections of the city. In the event
302 that no candidate for mayor obtains a majority vote of the qualified electors of the city at
303 large voting at the elections of the city, then a run-off election shall be held. The candidates
304 receiving the two highest numbers of votes in the election shall be included in the run-off
305 election and the candidate receiving the highest number of votes in the runoff of the qualified
306 electors of the city at large voting at such runoff shall be elected. The term of the first
307 elected mayor shall expire upon the administration of the oath of office to his or her
308 successor elected in the regular election held in November, 2017, as provided in
309 subsection (b) of Section 2.02. Thereafter, the successor to each mayor shall be elected at
310 the November election immediately preceding the end of such mayor's term of office and the
311 term of each mayor shall expire upon the administration of the oath of office to his or her
312 successor.

313 **SECTION 2.02.**

314 Mayor and councilmembers; terms and qualifications for office.

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

327 (b) An election shall be held on the third Tuesday in September, 2014, to elect the first
328 mayor and city council. At such election, the first mayor and council shall be elected to
329 serve for the initial terms of office specified in subsections (d) and (e) of Section 2.01.

330 Thereafter, the time for holding regular municipal elections shall be on the Tuesday next
331 following the first Monday in November of each odd-numbered year beginning in 2015.

332 (c) The number of successive terms an individual may hold a position as a councilmember
333 shall be unlimited.

334 (d) The number of successive terms an individual may hold the position of mayor shall be
335 limited to two terms. An individual who serves as mayor for either one term or two
336 consecutive terms may stand for subsequent elections provided the individual is not the
337 mayor at the time of such elections.

338 **SECTION 2.03.**

339 Vacancy; filling of vacancies; suspensions.

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

344 (1) Violating the provisions of this charter;

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

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

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

357 (c) The office of a councilmember shall become vacant upon the incumbent's death,
358 resignation, forfeiture of office, or removal from office in any manner authorized by this Act
359 or the general laws of the State of Georgia. A vacancy in the office of a councilmember shall
360 be filled for the remainder of the unexpired term by a special election if such vacancy occurs
361 12 months or more prior to the expiration of the term of that office. If such vacancy occurs
362 within 12 months of the expiration of the term of that office, the mayor shall appoint a
363 successor for the remainder of the term subject to the approval of the city council or those

364 members remaining. This provision shall also apply to a temporary vacancy created by the
365 suspension from office of a councilmember.

366 **SECTION 2.04.**
367 Nonpartisan elections.

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

370 **SECTION 2.05.**
371 Election votes.

372 The candidates for mayor and city council who receive a majority vote of the qualified
373 electors of the city at large voting at the elections of the city shall be elected to a term of
374 office.

375 **SECTION 2.06.**
376 Applicability of general laws; qualifying; other provisions.

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

384 **SECTION 2.07.**
385 Compensation and expenses.

386 The annual salary of the mayor shall be \$16,000.00 and the annual salary for each
387 councilmember shall be \$12,000.00. Such salaries shall be paid from municipal funds in
388 monthly installments. The mayor shall be provided an annual expense allowance of
389 \$5,000.00 and each councilmember shall be provided an annual expense allowance of
390 \$3,000.00 for the reimbursement of expenses actually and necessarily incurred by the mayor
391 and councilmembers in carrying out their duties as elected officials of the city.

SECTION 2.08.

Inquiries and investigations.

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

SECTION 2.09.

Meetings, oath of office, and mayor pro tempore.

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

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

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

(c) The mayor pro tempore shall assume the duties and powers of the mayor during the mayor's temporary disability, suspension, or absence. If the mayor pro tempore is absent

426 because of sickness or disqualification, any one of the remaining councilmembers, chosen
427 by the councilmembers present, shall be clothed with all the rights and privileges of the
428 mayor as described herein and shall perform the mayor's duties in the same manner as the
429 mayor pro tempore.

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

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

444 **SECTION 2.10.**

445 **Quorum; voting.**

446 (a) Four councilmembers shall constitute a quorum and shall be authorized to transact
447 business for the city council. The mayor shall be counted toward the making of a quorum.
448 Voting on the adoption of ordinances shall be taken by voice vote and the yeas and nays shall
449 be recorded in the minutes, but on the request of any member there shall be a roll-call vote.
450 In order for any ordinance, resolution, motion, or other action of the city council to be
451 adopted, the measure must receive at least three affirmative votes and must receive the
452 affirmative votes of a majority of those voting. Neither any councilmember nor the mayor
453 shall abstain from voting on any matter properly brought before the city council for official
454 action except when such councilmember has a reason which is disclosed in writing prior to
455 or at the meeting and made a part of the minutes. If any councilmember or the mayor is
456 present and eligible to vote on a matter and refuses to do so for a reason he or she will not
457 disclose he or she shall be deemed to have voted with the majority of the votes of the other
458 councilmembers on the issue involved; provided, further, that if there is a tie in the vote of
459 the voting councilmembers, then the mayor and each councilmember shall be required to

460 vote unless he or she discloses a reason for not voting. The mayor shall have one vote on all
461 matters brought before the council.

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

463 (1) Adopt or amend an administrative code or establish, alter, or abolish a department,
464 office not specified in this charter, or agency;

465 (2) Provide for fine or other penalty;

466 (3) Levy taxes;

467 (4) Grant, renew, or extend a franchise;

468 (5) Regulate a rate for a public utility;

469 (6) Authorize the borrowing of money;

470 (7) Convey, lease, or encumber city land;

471 (8) Regulate land use and development; and

472 (9) Amend or repeal an ordinance already adopted.

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

477 (1) Levy taxes;

478 (2) Grant, renew, or extend a franchise;

479 (3) Regulate a rate for a public utility; or

480 (4) Borrow money.

481 **SECTION 2.11.**

482 General power and authority of the city council.

483 (a) Except as otherwise provided by law or by this charter, the city council shall be vested
484 with all the powers of government of the City of Lavista Hills as provided by Article I of this
485 charter.

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

SECTION 2.12.

Administrative and service departments.

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

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

SECTION 2.13.

Prohibitions.

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

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

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

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

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

or indirectly, in any manner whatsoever in business dealings with the governmental body by which he or she is engaged; "valuable" shall be an amount determined by the city council; provided, however, that the amount shall not exceed \$100.00;

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

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

(b) Any elected official, appointed officer, or employee who has any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such private interest to the city council. "Private financial interest" shall include interests of immediate family. The mayor or any councilmember who has a private interest in any matter pending before the city council shall disclose in writing such private interest and such disclosure shall be entered on the records of the city council, and he or she shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any private financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such private interest to the governing body of such agency or entity.

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

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

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

SECTION 2.14.

Boards, commissions, and authorities.

(a) All members of boards, commissions, and authorities of the city shall be appointed by the mayor subject to confirmation by the city council for such terms of office and such manner of appointment as provided by ordinance, except where other appointing authority,

561 term of office, or manner of appointment is prescribed by this charter or by applicable state
562 law.

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

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

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

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

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

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

586 **SECTION 2.15.**

587 Ordinance form; procedures.

588 (a) Every proposed ordinance and resolution shall be introduced in writing and the city
589 council shall have the authority to approve, disapprove, or amend the same. A resolution
590 may be passed at the time it is offered, but an ordinance shall not be adopted until the title
591 of said ordinance shall have been read at two city council meetings, provided that the
592 beginning of said meetings be neither less than 24 hours nor more than 60 days apart. This
593 requirement of two readings shall not apply to emergency ordinances, to ordinances passed
594 during the first 90 days from the date on which the city begins operation, to ordinances
595 adopted at the first business meeting of the city council in a calendar year, or to ordinances

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

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

602 (2) Shall not be so deemed when any of such sections, including the catchlines, are
603 amended or reenacted unless expressly provided to the contrary. Furthermore, the
604 chapter, article, and section headings contained in this Act shall not be deemed to govern,
605 limit, or modify or in any manner affect the scope, meaning, or intent of the provisions
606 of any chapter, article, or section hereof.

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

611 **SECTION 2.16.**

612 Submission of ordinances to the city clerk.

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

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

619 **ARTICLE III**

620 **EXECUTIVE BRANCH**

621 **SECTION 3.01.**

622 Powers and duties of the mayor.

623 (a) The mayor shall:

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

625 (2) Set the agenda for meetings of the city council after receiving input from members
626 of the city council, the city manager, and the public; provided, however that an additional

item shall be added to the agenda upon the written request of any two members of the city council;

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

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

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

(6) Vote in all matters before the city council as provided in Section 2.10(a) of this charter;

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

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

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

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

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

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

SECTION 3.02.

City manager; appointment and qualification.

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

SECTION 3.03.

City manager; chief administrative officer.

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

SECTION 3.04.

City manager; powers and duties enumerated.

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

- (1) See that all laws and ordinances are enforced;
- (2) Appoint and employ all necessary employees of the city, provided that the power of this appointment shall not include officers and employees who by this charter are appointed or elected by the mayor and the city council or departments not under the jurisdiction of the city manager;
- (3) Remove employees appointed and employed under paragraph (2) of this section, without the consent of the city council and without assigning any reason therefor;
- (4) Exercise supervision and control of all departments and all divisions created in this charter or that may hereafter be created by the city council except as otherwise provided in this charter;
- (5) Attend all meetings of the city council, without a right to vote, but with a right to take part in the discussions as seen fit by the chairperson; provided, however, that regardless of the decision of the meeting chairperson the city manager may take part in any discussion and report on any matter requested and approved by the city council at such meeting. The city manager shall be entitled to notice of all special meetings;
- (6) Recommend to the city council, after prior review and comment by the mayor, for adoption such measures as the city manager may deem necessary or expedient;
- (7) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and upon knowledge of any violation thereof to call the same to the attention of the city attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same;
- (8) Make and execute all lawful contracts on behalf of the city as to matters within the city manager's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no contract purchase or obligation requiring a budget amendment shall be valid and binding until after approval of the city council;
- (9) Sign all orders, checks, and warrants for payment of money within the city manager's level of authorization as established by the city council to the extent that such contracts are funded in the city's budget, except such as may be otherwise provided by law; provided, however, that no such order, check, or warrant requiring a budget amendment shall be valid and binding until after approval of the city council;
- (10) Act as budget officer to prepare and submit to the city council, after review and comment by the mayor, prior to the beginning of each fiscal year a budget of proposed

expenditures for the ensuing year, showing in as much detail as practicable the amounts allotted to each department of the city government and the reasons for such estimated expenditures;

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

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

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

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

SECTION 3.05.

City council interference with administration.

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

SECTION 3.06.

City manager; removal.

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

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

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

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

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

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

SECTION 3.07.

Acting city manager.

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

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

SECTION 3.08.

City attorney.

The mayor shall appoint the city attorney or city attorneys together with such assistant city attorneys as may be deemed appropriate subject to confirmation by the city council and shall provide for the payment of such attorneys for services rendered to the city. The rates or salary paid to any city attorney or assistant city attorney shall be approved in advance by the city council. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party; may be the prosecuting officer in the municipal court; shall attend the meetings of the city council as directed; shall advise the city council, mayor, other officers, and employees of the city concerning legal aspects of the city's affairs;

761 and shall perform such other duties as may be required by virtue of his or her position as city
762 attorney. The city attorney shall review all contracts of the city but shall not have the power
763 to bind the city.

764 **SECTION 3.09.**

765 City clerk.

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

770 **SECTION 3.10.**

771 Tax collector.

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

777 **SECTION 3.11.**

778 City accountant.

779 The mayor may appoint a city accountant subject to confirmation by the city council to
780 perform the duties of an accountant.

781 **SECTION 3.12.**

782 City internal auditor.

783 The city council shall appoint an internal auditor to audit the financial records and
784 expenditures of city funds and to report the results of such audits in writing to the city
785 council at times and intervals set by the city council but no less than quarterly. Such audit
786 reports shall, at a minimum, identify all city expenditures and other financial matters that the
787 internal auditor either determines are not in compliance with or cannot conclusively be
788 determined to be in compliance with:

789 (1) The provisions of this charter;

- 790 (2) The applicable city budget; and
791 (3) Applicable ordinances, resolutions, or other actions duly adopted or approved under
792 the provisions of this charter.

793 **SECTION 3.13.**
794 Consolidation of functions.

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

801 **SECTION 3.14.**
802 Position classification and pay plans; employment at will.

803 The city manager shall be responsible for the preparation of a position classification and a
804 pay plan which shall be submitted to the city council for approval. Said plan may apply to
805 all employees of the City of Lavista Hills and any of its agencies and offices. When a pay
806 plan has been adopted by the city council, neither the city council nor the city manager shall
807 increase or decrease the salaries of individual employees except in conformity with such pay
808 plan or pursuant to an amendment of such pay plan duly adopted by the city council. Except
809 as otherwise provided in this charter, all employees of the city shall be subject to removal or
810 discharge, with or without cause, at any time.

811 **ARTICLE IV**
812 **MUNICIPAL COURT**

813 **SECTION 4.01.**
814 Creation.

815 There is established a court to be known as the Municipal Court of the City of Lavista Hills
816 which shall have jurisdiction and authority to try offenses against the laws and ordinances
817 of such city and to punish for a violation of the same. Such court shall have the power to
818 enforce its judgments by the imposition of such penalties as may be provided by law,
819 including ordinances of the city; to punish witnesses for nonattendance and to punish also

820 any person who may counsel or advise, aid, encourage, or persuade another whose testimony
821 is desired or material in any proceeding before such court to go or move beyond the reach
822 of the process of the court; to try all offenses within the territorial limits of the city
823 constituting traffic cases which, under the laws of Georgia, are placed within the jurisdiction
824 of municipal courts to the extent of, and in accordance with, the provisions of such laws and
825 all laws subsequently enacted amendatory thereof. Such court shall be presided over by the
826 judge of such court. In the absence or disqualification of the judge, the judge pro tempore
827 shall preside and shall exercise the same powers and duties as the judge when so acting.

828 **SECTION 4.02.**

829 **Judges.**

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

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

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

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

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

SECTION 4.03.

Convening.

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

SECTION 4.04.

Jurisdiction; powers.

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

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

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

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

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

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

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

885 **SECTION 4.05.**

886 Certiorari.

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

891 **SECTION 4.06.**

892 Rules for court.

893 With the approval of the city council, the judges shall have full power and authority to make
894 reasonable rules and regulations necessary and proper to secure the efficient and successful
895 administration of the municipal court.

896 **ARTICLE V**
897 **FINANCE AND FISCAL**

898 **SECTION 5.01.**

899 Fiscal year.

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

904 **SECTION 5.02.**

905 Preparation of budgets.

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

909

SECTION 5.03.

910

Submission of operating budget to city council.

911 (a) On or before a date fixed by the city council, but no later than the first day of the ninth
912 month of the fiscal year currently ending, the city manager shall, after input, review, and
913 comment by the mayor, submit to the city council a proposed operating budget and capital
914 budget for the ensuing fiscal year. The budget shall be accompanied by a message from the
915 mayor and city manager containing a statement of the general fiscal policies of the city, the
916 important features of the budget, explanations of major changes recommended for the next
917 fiscal year, a general summary of the budget, and such other comments and information as
918 they may deem pertinent. The operating budget, capital budget, the budget message, and all
919 supporting documents shall be filed in the office of the city manager and shall be open to
920 public inspection.

921 (b) Beginning in the third year of the city's operation, the city manager and mayor are
922 required to present to the city council a budget which is balanced in projected spending and
923 revenues.

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

928 (d) All unencumbered balances of appropriations in the current operating budget at the end
929 of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds
930 from which such appropriations were made. When a supplemental appropriation is certified
931 by the city manager to exist, these appropriations may be spent during the current fiscal year
932 following passage of a supplemental appropriation ordinance.

933

SECTION 5.04.

934

Action by city council on budget.

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

941 (b) The city council shall adopt a budget on or before the first day of the eleventh month of
942 the fiscal year currently ending. If the city council fails to adopt the budget by the prescribed

943 deadline, the operating budget and capital budget proposed by the mayor and city manager
944 shall be adopted without further action by the city council.

945 **SECTION 5.05.**

946 Procurement and property management.

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

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

955 **SECTION 5.06.**

956 Purchasing.

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

959 **SECTION 5.07.**

960 Audits.

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

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

SECTION 5.08.

Homestead exemption; freeze.

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

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

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

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

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

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

(d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person has filed the proper application as provided in subsection (c) of this section, it shall not be necessary to make application thereafter for any year, and the exemption shall continue to be allowed to such person. It shall be the duty of any person granted the homestead exemption under subsection (b) of this section to notify the governing authority of the City of Lavista Hills,

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

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

(f) The exemption granted by subsection (b) of this section shall apply only to taxable years 2015 through 2017. Unless renewed or extended by subsequent Act of the General Assembly, the exemption granted by subsection (b) of this section shall not apply to taxable year 2018 or any subsequent taxable year.

SECTION 5.09.

Homestead exemption; senior citizens; disabled.

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

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

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

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

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

(b) Each resident of the City of Lavista Hills who is disabled or is a senior citizen is granted an exemption on that person's homestead from City of Lavista Hills ad valorem taxes for municipal purposes in the amount of \$14,000.00 of the assessed value of that homestead. The exemption granted by this subsection shall only be granted if that person's income,

together with the income of the spouse who also occupies and resides at such homestead, does not exceed \$15,000.00 for the immediately preceding year. The value of that property in excess of such exempted amount shall remain subject to taxation.

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

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

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

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

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2015.

SECTION 5.10.**Homestead exemption; general.**

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

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

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

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

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

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

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

(f) The exemption granted by subsection (b) of this section shall apply to all taxable years beginning on or after January 1, 2015.

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

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

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

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

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

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

(c) In order to qualify for the exemption provided for in this Act, the unremarried surviving spouse shall furnish to the governing authority of the City of Lavista Hills, or the designee thereof, documents from the Secretary of Defense evidencing that such unremarried surviving spouse receives spousal benefits as a result of the death of such person's spouse who as a member of the armed forces of the United States was killed or died as a result of a war or armed conflict while on active duty or while performing authorized travel to or from active duty during such war or armed conflict in which the armed forces of the United States engaged, whether under United States command or otherwise, pursuant to the Survivor Benefit Plan under Subchapter II of Chapter 73 of Title 10 of the United States Code or

1145 pursuant to any preceding or subsequent federal law which provides survivor benefits for
1146 spouses of members of the armed forces who were killed or who died as a result of any war
1147 or armed conflict.

1148 (d) An unremarried surviving spouse filing for the exemption under this section shall be
1149 required to file with the governing authority of the City of Lavista Hills, or the designee
1150 thereof, information relative to marital status and other such information which the governing
1151 authority of the City of Lavista Hills, or the designee thereof, deems necessary to determine
1152 eligibility for the exemption. Each unremarried surviving spouse shall file for the exemption
1153 only once with the governing authority of the City of Lavista Hills or the designee thereof.
1154 Once filed, the exemption shall automatically be renewed from year to year, except that the
1155 governing authority of the City of Lavista Hills or the designee thereof may require annually
1156 that the holder of an exemption substantiate his or her continuing eligibility for the
1157 exemption. It shall be the duty of any person granted the homestead exemption under this
1158 section to notify the governing authority of the City of Lavista Hills or the designee thereof
1159 in the event that person for any reason becomes ineligible for such exemption.

1160 (e) The exemption granted by this section shall be in lieu of and not in addition to any other
1161 exemption from ad valorem taxation for municipal purposes which is equal to or lower in
1162 amount than such exemption granted by this section. If the amount of any other exemption
1163 from ad valorem taxation for municipal purposes applicable to any resident qualifying under
1164 this section is greater than or is increased to an amount greater than the amount of the
1165 applicable exemption granted by this section, such other exemption shall apply and shall be
1166 in lieu of and not in addition to the exemption granted by this section.

1167 (f) The exemptions granted by this section shall apply to all tax years beginning on or after
1168 January 1, 2015.

1169 **SECTION 5.12.**

1170 Homestead exemption; one mill equivalent.

1171 (a) As used in this section, the term:

1172 (1) "Ad valorem taxes for municipal purposes" means all ad valorem taxes for municipal
1173 purposes levied by, for, or on behalf of the City of Lavista Hills, including, but not
1174 limited to, any ad valorem taxes to pay interest on and to retire municipal bonded
1175 indebtedness.

1176 (2) "Homestead" means homestead as defined and qualified in Code Section 48-5-40 of
1177 the O.C.G.A., as amended.

1178 (b) Each resident of the City of Lavista Hills is granted an exemption on that person's
1179 homestead from City of Lavista Hills ad valorem taxes for municipal purposes in an amount

1180 that provides the dollar equivalent of a one mill reduction of the millage rate applicable to
1181 the homestead property with respect to ad valorem taxes for municipal purposes for the
1182 taxable year. The value of that property in excess of such exempted amount shall remain
1183 subject to taxation.

1184 (c) A person shall not receive the homestead exemption granted by subsection (b) of this
1185 section unless the person or person's agent files an application with the governing authority
1186 of the City of Lavista Hills or the designee thereof giving such information relative to
1187 receiving such exemption as will enable the governing authority of the City of Lavista Hills
1188 or the designee thereof to make a determination regarding the initial and continuing
1189 eligibility of such owner for such exemption. The governing authority of the City of Lavista
1190 Hills or the designee thereof shall provide application forms for this purpose.

1191 (d) The exemption shall be claimed and returned as provided in Code Section 48-5-50.1 of
1192 the O.C.G.A., as amended. The exemption shall be automatically renewed from year to year
1193 so long as the owner occupies the residence as a homestead. After a person has filed the
1194 proper application, as provided in subsection (c) of this section, it shall not be necessary to
1195 make application thereafter for any year and the exemption shall continue to be allowed to
1196 such person. It shall be the duty of any person granted the homestead exemption under
1197 subsection (b) of this section to notify the governing authority of the City of Lavista Hills or
1198 the designee thereof in the event that person for any reason becomes ineligible for that
1199 exemption.

1200 (e) The exemption granted by subsection (b) of this section shall not apply to or affect state
1201 ad valorem taxes, county ad valorem taxes for county purposes, or county or independent
1202 school district ad valorem taxes for educational purposes. The homestead exemption granted
1203 by subsection (b) of this section shall be in addition to and not in lieu of any other homestead
1204 exemption applicable to municipal ad valorem taxes for municipal purposes.

1205 (f) The exemption granted by subsection (b) of this section shall apply to all taxable years
1206 beginning on or after January 1, 2015.

1207 ARTICLE VI

1208 GENERAL PROVISIONS

1209 SECTION 6.01.

1210 DeKalb County special services tax district.

1211 For the taxable years beginning on or after January 1, 2015, the adjusted ad valorem tax
1212 millage rate and amount for service charges or fees for district services for the Lavista Hills
1213 special services tax district shall be zero percent. This section is enacted pursuant to the

1214 authority granted to the General Assembly under Section 1 of that local constitutional
1215 amendment providing that certain municipalities in DeKalb County shall constitute special
1216 services tax districts, Resolution Act. No. 168; House Resolution No. 715-1916; Ga. L. 1978,
1217 p. 2468, to control the subject matter of such local constitutional amendment. Municipal
1218 services provided by DeKalb County for the City of Lavista Hills will be established through
1219 intergovernmental agreements or established as otherwise authorized by statute.

1220 **SECTION 6.02.**

1221 Referendum and initial election.

1222 (a) Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election
1223 superintendent of DeKalb County shall call a special election for the purpose of submitting
1224 this Act to the qualified voters of the proposed City of Lavista Hills for approval or rejection.
1225 The superintendent shall set the date of such election for the date of the general primary
1226 in 2014. The superintendent shall issue the call for such election at least 30 days prior to the
1227 date thereof. The superintendent shall cause the date and purpose of the election to be
1228 published once a week for two weeks immediately preceding the date thereof in the official
1229 organ of DeKalb County. The ballot shall have written or printed thereon the words:

1230 "() YES Shall the Act incorporating the City of Lavista Hills in DeKalb County
1231 () NO according to the charter contained in the Act and the homestead exemptions
1232 described in the Act be approved?

1233 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
1234 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
1235 such question are for approval of the Act, it shall become of full force and effect as provided
1236 in this charter, otherwise it shall be void and of no force and effect. The initial expense of
1237 such election shall be borne by DeKalb County. Within two years after the elections if the
1238 incorporation is approved, the City of Lavista Hills shall reimburse DeKalb County for the
1239 actual cost of printing and personnel services for such election and for the initial election of
1240 the mayor and councilmembers pursuant to Section 2.02 of this charter. It shall be the duty
1241 of the superintendent to hold and conduct such election. It shall be his or her further duty to
1242 certify the result thereof to the Secretary of State.

1243 (b) For the purposes of the referendum election provided for in subsection (a) of this section
1244 and for the purposes of the special election of the City of Lavista Hills to be held on the third
1245 Tuesday in September, 2014, the qualified electors of the City of Lavista Hills shall be those
1246 qualified electors of DeKalb County residing within the corporate limits of the City of
1247 Lavista Hills as described by Appendix A of this charter. At subsequent municipal elections,

1248 the qualified electors of the City of Lavista Hills shall be determined pursuant to the
1249 authority of Chapter 2 of Title 21 of the O.C.G.A. known as the "Georgia Election Code."
1250 (c) Only for the purposes of holding and conducting the referendum election provided for
1251 by subsection (a) of this section and holding and conducting the special election of the City
1252 of Lavista Hills to be held on the third Tuesday in September, 2014, the election
1253 superintendent of DeKalb County is vested with the powers and duties of the election
1254 superintendent of the City of Lavista Hills and the powers and duties of the governing
1255 authority of the City of Lavista Hills.

1256 **SECTION 6.03.**

1257 Effective dates and transition.

1258 (a) The initial mayor and councilmembers shall take the oath of office the next business day
1259 after certification of the election of such officers, and by action of any four members of the
1260 governing authority may, prior to December 1, 2014, meet and take actions binding on the
1261 city.

1262 (b) A period of time will be needed for an orderly transition of various government functions
1263 from DeKalb County to the City of Lavista Hills. Accordingly there shall be a two-year
1264 transition period as allowed by law beginning at 12:01 A.M. on December 1, 2014.

1265 (c) During such transition period, DeKalb County shall continue to provide within the
1266 territorial limits of the city all government services and functions which DeKalb County
1267 provided in 2014 and at the same actual direct cost and level of service, except to the extent
1268 otherwise provided in this section; provided, however, that upon at least 30 days' prior
1269 written notice to the governing authority of DeKalb County by the governing authority of the
1270 City of Lavista Hills, responsibility for any such service or function shall be transferred to
1271 the City of Lavista Hills. The governing authority of the City of Lavista Hills shall
1272 determine the date of commencement of collection of taxes, fees, assessments, fines and
1273 forfeitures, and other moneys within the territorial limits of the city and the date upon which
1274 the City of Lavista Hills is considered removed from the special services tax district.

1275 (d) During the transition period, the governing authority of the City of Lavista Hills may
1276 generally exercise any power granted by this charter or general law, except to the extent that
1277 a power is specifically and integrally related to the provision of a governmental service,
1278 function, or responsibility not yet provided or carried out by the city.

1279 (e) During the transition period, all ordinances of DeKalb County shall remain applicable
1280 within the territorial limits of the city unless otherwise amended, repealed, or replaced by the
1281 City of Lavista Hills. Any transfer of jurisdiction to the City of Lavista Hills during or at the
1282 end of the transition period shall not in and of itself abate any judicial proceeding pending

1283 in DeKalb County or the pending prosecution of any violation of any ordinance of DeKalb
1284 County.

1285 (f) During the transition period, the governing authority of the City of Lavista Hills may at
1286 any time, without the necessity of any agreement by DeKalb County, commence to exercise
1287 its planning and zoning powers; provided, however, that the city shall give the county notice
1288 of the date on which the city will assume the exercise of such powers. Upon the governing
1289 authority of the City of Lavista Hills commencing to exercise its planning and zoning
1290 powers, the Municipal Court of the City of Lavista Hills shall immediately have jurisdiction
1291 to enforce the planning and zoning ordinances of the city. The provisions of this subsection
1292 shall control over any conflicting provisions of any other subsection of this section.

1293 (g) Effective upon the termination of the transition period, subsections (b) through (f) of this
1294 section shall cease to apply except for the last sentence of subsection (e) which shall remain
1295 effective. Effective upon the termination of the transition period, the City of Lavista Hills
1296 shall be a full functioning municipal corporation and subject to all general laws of this state.

1297 **SECTION 6.04.**

1298 Directory nature of dates.

1299 It is the intention of the General Assembly that this Act be construed as directory rather than
1300 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any
1301 action called for in this Act for providential cause, delay in securing approval under the
1302 federal Voting Rights Act, or any other reason, it is the intention of the General Assembly
1303 that the action be delayed rather than abandoned. Any delay in performing any action under
1304 this Act, whether for cause or otherwise, shall not operate to frustrate the overall intent of this
1305 Act. Without limiting the generality of the foregoing, it is specifically provided that if it is
1306 not possible to hold the referendum election provided for in Section 6.02 of this Act on the
1307 date specified in that section, then such referendum shall be held as soon thereafter as is
1308 reasonably practicable but not later than 45 days after securing approval under the federal
1309 Voting Rights Act. If the referendum election provided for in Section 6.02 of this Act is
1310 conducted on or before August 6, 2014, the special election for the initial members of the
1311 governing authority shall be conducted on the date specified in Section 2.02 of this Act. If
1312 the referendum election provided for under Section 6.02 of this Act is conducted after
1313 August 6, 2014, then the special election for the initial members of the governing authority
1314 shall be held as soon thereafter as is reasonably practicable, and the commencement of the
1315 initial terms of office shall be delayed accordingly. If the first election provided for in
1316 Section 2.02 of this Act occurs after the Tuesday following the first Monday in

1317 November, 2014, the city council shall be authorized to delay the dates otherwise specified
1318 in Section 6.03 of this Act.

1319 **SECTION 6.05.**

1320 Charter commission.

1321 No later than five years after the inception of the City of Lavista Hills, the mayor and the city
1322 council shall call for a charter commission to review the city's experience and recommend
1323 to the General Assembly any changes to the charter. Members of the charter commission
1324 shall be appointed as follows: one by the mayor, one by each member of the city council, and
1325 one member appointed by a vote of the members of the Georgia House of Representatives
1326 and Georgia Senate whose districts lie wholly or partially within the corporate boundaries
1327 of the City of Lavista Hills. All members of the charter commission shall reside in the City
1328 of Lavista Hills. The commission shall complete the recommendations within the time frame
1329 required by the city council.

1330 **SECTION 6.06.**

1331 Severability.

1332 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
1333 or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other
1334 sections, subsections, sentences, clauses, or phrases of this Act, which shall remain of full
1335 force and effect, as if the section, subsection, sentence, clause, or phrase so declared or
1336 adjudged invalid or unconstitutional were not originally a part hereof. The General
1337 Assembly hereby declares that it would have passed the remaining parts of this Act if it had
1338 known that such part or parts hereof would be declared or adjudged invalid or
1339 unconstitutional.

1340 **SECTION 6.07.**

1341 Effective date.

1342 This Act shall become effective upon its approval by the Governor or upon its becoming law
1343 without such approval.

SECTION 6.08.

Repealer.

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

APPENDIX A**LEGAL DESCRIPTION****CORPORATE LIMITS****CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA**

All that tract or parcel of land lying and being in the ___th and ___th Land Districts of DeKalb County, Georgia, and more particularly described as follows:

The above-described Corporate Limits for the proposed City of Lavista Hills contains an area of ____ square miles, more or less, has a perimeter of ____ miles more or less, and are shown more fully on the map entitled Proposed City of Lavista Hills, DeKalb County, Georgia, January 2013.

APPENDIX B - PART 1**LEGAL DESCRIPTION****COUNCIL DISTRICT 1 CITY LIMITS****CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA**

All that tract or parcel of land lying and being in Land Lot _____ . . . and being more particularly described as follows:

The above-described Council District Number 1 Limits for the proposed City of Lavista Hills contains an area of ____ square miles more or less, with a perimeter of ____ miles more or less.

APPENDIX B - PART 2**LEGAL DESCRIPTION****COUNCIL DISTRICT 2 CITY LIMITS****CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA**

1370 All that tract or parcel of land lying and being in Land Lot _____ . . . and
1371 being more particularly described as follows:

1372 The above-described Council District Number 2 Limits for the proposed City of Lavista Hills
1373 contains an area of _____ square miles, more or less, with a perimeter of _____ miles more or
1374 less.

1375 APPENDIX B - PART 3

1376 LEGAL DESCRIPTION

1377 COUNCIL DISTRICT 3 CITY LIMITS

1378 CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA

1379 All that tract or parcel of land lying and being in Land Lot _____ . . . and
1380 being more particularly described as follows:

1381 The above-described Council District Number 3 Limits for the proposed City of Lavista Hills
1382 contains an area of _____ square miles, more or less, with a perimeter of _____ miles more or
1383 less.

1384 APPENDIX B - PART 4

1385 LEGAL DESCRIPTION

1386 COUNCIL DISTRICT 4 CITY LIMITS

1387 CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA

1388 All that tract or parcel of land lying and being in Land Lot _____ . . . and
1389 being more particularly described as follows:

1390 The above-described Council District Number 4 Limits for the proposed City of Lavista Hills
1391 contains an area of _____ square miles, more or less, with a perimeter of _____ miles more or
1392 less.

1393 APPENDIX B - PART 5

1394 LEGAL DESCRIPTION

1395 COUNCIL DISTRICT 5 CITY LIMITS

1396 CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA

1397 All that tract or parcel of land lying and being in Land Lot _____ . . . and
1398 being more particularly described as follows:

1399 The above-described Council District Number 5 Limits for the proposed City of Lavista Hills
1400 contains an area of ____ square miles, more or less, with a perimeter of ____ miles more or
1401 less.

1402 APPENDIX B - PART 6

1403 LEGAL DESCRIPTION

1404 COUNCIL DISTRICT 6 CITY LIMITS

1405 CITY OF LAVISTA HILLS, DEKALB COUNTY, GEORGIA

1406 All that tract or parcel of land lying and being in Land Lot _____ . . . and
1407 being more particularly described as follows:

1408 The above-described Council District Number 6 Limits for the proposed City of Lavista Hills
1409 contains an area of ____ square miles, more or less, with a perimeter of ____ miles more or
1410 less.

1411 APPENDIX C

1412 CERTIFICATE AS TO MINIMUM STANDARDS

1413 FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1414 I, Senator Jason Carter, Georgia State Senator from the 42nd District and the author of this
1415 bill introduced at the 2013 session of the General Assembly of Georgia, which grants an
1416 original municipal charter to the City of Lavista Hills, do hereby certify that this bill is in
1417 compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.
1418 in that the area embraced within the original incorporation in this bill is in all respects in
1419 compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.

1420 This certificate is executed to conform to the requirements of Code Section 36-31-5 of the
1421 O.C.G.A.

1422 So certified this _____ day of _____, 2013.

1423	Honorable Jason Carter
1424	Senator, 42nd District
1425	Georgia State Senate