

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE BY THE CITY OF CLARKSTON TO AMEND THE CITY CHARTER TO CLARIFY CERTAIN PROVISIONS; TO CONFORM THE CHARTER TO RECENT DECISIONS OF THE GEORGIA SUPREME COURT AND THE CITY'S COUNCIL-MANAGER FORM OF GOVERNMENT; TO ELIMINATE SINGLE GENDER REFERENCES FROM THE CHARTER; TO REPEAL CONFLICTING PROVISIONS; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City Council empowered a Charter Review Committee to review the Charter for any provisions that might be confusing or out of date; and

**WHEREAS**, the Charter Review Committee has recommended amending certain provisions of the Charter and the City desires to clarify these provisions of the City Charter; and

**WHEREAS**, the City is authorized to amend its Charter pursuant to its home rule powers as set forth in O.C.G.A. § 36-35-3.

**NOW THEREFORE, BE IT ORDAINED** by the City of Clarkston as follows:

SECTION 1. City Charter Section 1.01 is hereby amended to replace the word "DeKalb" in the second sentence with the word "DeKalb."

SECTION 2. City Charter Section 1.02 is hereby deleted and replaced with the following language:

**"Sec. 1.02 – City Limits.**

Said city shall include all territory identified in any annexation enacted by the Georgia General Assembly or by ordinance of the City of Clarkston, as well as the City's original boundary described as follows: All that tract or parcel of land lying and being in the County of DeKalb, State of Georgia, embracing and including the territory as follows: One-half (½) mile in every direction from a marker at the center of the old depot site of the Georgia Railroad, said city and its territory being embraced in the circle thus traced by using one-half (½) mile as a radius and said marker at the center of said old depot site as a center."

SECTION 3. City Charter Section 1.03, subsection (r), is hereby deleted and replaced with the following language:

"(r) To provide that persons given jail sentences by the municipal court may be committed to the DeKalb County jail to serve their sentence pursuant to agreement with the appropriate County officers."

SECTION 4. City Charter Section 2.01 is hereby deleted and replaced with the following language:

**“Sec. 2.01. – Election of mayor and council members.**

The person serving as mayor and the council members serving on the effective date of this section shall continue to serve for the remainder of their terms and until their successors are duly elected and qualified. On the Tuesday next following the first Monday in November in 2011, and quadrennially thereafter, there shall be an election to elect the successors to the three council members whose terms expire at the end of that year. On the Tuesday next following the first Monday in November in 2013, and quadrennially thereafter, there shall be an election to elect the mayor and the successors to the three council members whose terms expire at the end of that year. The candidate for mayor receiving a majority of votes cast shall be elected mayor. The candidates for council members receiving the greatest, second greatest, and third greatest number of votes cast for council members shall be elected. Elections shall be conducted in accordance with Chapter 2 of Title 21, the Georgia Election Code.”

SECTION 5. City Charter Section 2.02, subsections (c), (d) and (e), are hereby deleted and replaced with the following language:

“(c) The city council shall hold regular public meetings at a stated time and place, as provided by ordinances. The council shall meet in special session on written call of any two (2) council members, upon twenty-four (24) hours notice to the public pursuant to State general law and notice served on the other council members personally or left at their residences at least twelve (12) hours in advance of the meeting. But such notice to council members of a special meeting shall not be required if the mayor and all council members are present when the special meeting is called. The mayor may also call a special meeting, pursuant to the procedures just set forth, with the written consent of two council members. During a state of emergency or disaster declared by the governor or his/her designee, the mayor may call a special meeting pursuant to O.C.G.A. § 38-3-54 upon providing such notice to the council members as may be possible under the circumstances. Only the business stated in the written call may be transacted at a special meeting, except by unanimous consent of all members of the council.”

(d) The city council shall exercise its powers in public meetings. Any four (4) members of the City Council shall constitute a quorum. For the purposes of determining a quorum only, the mayor shall count as a member of the city council. The council may, by ordinance, adopt rules and by-laws to govern the conduct of its business; including procedures and penalties for compelling the attendance of absent members.

- (e) By a majority vote of a quorum of the city council, the council may subpoena and examine witnesses, may order the production of books and papers, and may punish for refusal to obey such an order or subpoena, or for disorderly or contemptuous behavior in the presence of the council.”

SECTION 6. City Charter Section 2.03 is hereby deleted and replaced with the following language:

**“Sec. 2.03. – Mayor as presiding officer; veto power.**

- (a) The mayor shall preside at meetings of the council; shall have a vote in case of a tie in any vote of the city council; shall be the ceremonial head of the city; shall sign ordinances and resolutions on their final passage; shall sign deeds, bonds, and contracts when authorized by the council to do so; shall be the officer to accept process against the city; and shall perform other duties imposed by this Charter and by ordinances not inconsistent with this Charter.
- (b) The mayor shall have the power to veto official acts of the city council. The mayor shall have five days after meetings of the council in which to file with the clerk in writing his/her dissent, but the city council may pass the ordinance, order, or resolution, notwithstanding the veto, by an affirmative vote of four (4) council members, to be taken by ayes and nays, and entered upon the minutes.”

SECTION 7. City Charter Section 2.04 is hereby deleted and replaced with the following language:

**“Sec. 2.04. – Vice-mayor.**

The city council, at its January regular meeting, shall elect from its membership a vice-mayor for a term of one year. In the event that no decision is reached at such regular meeting; the council shall, within five (5) ballots to be taken within ten (10) days following such meeting, elect the vice-mayor; otherwise the council member who received the highest number of votes, when he/she was last elected, shall become vice-mayor. The vice-mayor shall perform the duties of the mayor during his/her absence or inability to act, and shall fill out any unexpired term in the office of mayor, unless and until the position is filled by special election. If the vice-mayor fills a vacancy in the office of mayor, a new vice-mayor shall be elected by majority vote of the council.”

SECTION 8. City Charter Section 2.05 is hereby deleted and replaced with the following language:

**“Sec. 2.05 – Vacancy in office of mayor or council member.**

- (a) A vacancy shall exist if the mayor or a council member resigns, dies, moves his or her residence from the city, has been continuously disabled for a period of six (6) months so as to prevent him or her from discharging the duties of office, shall have engaged in any activity or done any act which under the laws of this state would preclude him or her from continuing to serve as an elected official, or shall have been removed from office by the electorate as provided by law. Such vacancy shall be declared by the mayor unless it shall be the office of mayor which is vacant, and in such case by the vice-mayor. Such declaration shall be made in a regular meeting of the city council and shall be affirmed by a majority vote of the city council.
  
- (b) Should a vacancy occur in the office of mayor, the vice mayor shall assume the duties of the mayor until an election is held pursuant to this subsection. If a regular municipal election to elect a mayor will occur within one hundred eighty (180) days of the occurrence of a vacancy in the office of mayor, then the vice-mayor shall complete the vacant mayor's term. If no such regular election is scheduled, a special election to elect a mayor to fill out the vacant mayor's term shall be held. If required, such special election shall be held not less than sixty (60) days and not more than one hundred eighty (180) days from the date that a vacancy in the office of mayor is declared and in any event on a date provided for by O.C.G.A. § 21-2-540(c). If more than one (1) date provided for by O.C.G.A. § 21-2-540(c) meets the terms of this charter provision, then the city council shall select the date of the special election by resolution.
  
- (c) If the vacancy occurs in the office of council member and if a regular municipal election will occur for the council seat that is vacant within twelve (12) months of the date of the declaration of such vacancy, then the city council may appoint a qualified person to complete the unexpired term of the vacant council member. Upon declaration of a vacancy in the office of council member, if it shall be more than twelve (12) months to the next regular municipal election for the council seat that is vacant, a special election shall be held to fill the vacancy. If required, such special election shall be held not less than sixty (60) days and not more than one hundred eighty (180) days from the date that a vacancy in the office of council member is declared and in any event on a date provided for by O.C.G.A. § 21-2-540(c). If more than one (1) date provided for by O.C.G.A. § 21-2-540(c) meets the terms of this charter provision, then the city council shall select the date of the special election by resolution.”

SECTION 9. City Charter Section 2.08 is hereby deleted and replaced with the following language:

**“Sec. 2.08. – Qualifications for mayor and council members.**

To be eligible for the office of mayor or council member, a person must meet the requirements of a qualified elector for members of the General Assembly as prescribed by state law, must have been a bona fide resident of the City of Clarkston for one (1) year next preceding the election in which he/she offers as a candidate, and must have no debts outstanding against him/her in favor of the city, county or state.”

SECTION 10. City Charter Section 3.01 is hereby deleted and replaced with the following language:

**“Sec. 3.01. – Organization.**

The city manager shall organize the departments, agencies and staff of the city and designate the duties, responsibilities and positions of employees of the city in the manner that will provide for the most efficient and effective administration of city business and effectuate the policies established by the city council.”

SECTION 11. City Charter Section 3.02, subsection (d)(5), is hereby deleted and replaced with the following language:

“(5) Prepare and submit the annual operating budget and capital budget to the city council. The mayor and council members may submit recommendations prior to the city manager’s submission of these budgets.”

SECTION 12. City Charter Section 3.02, subsection (e), is hereby deleted and replaced with the following language:

“(e) Except for the purpose of official investigations, the mayor and members of the city council shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the mayor, the city council nor its members shall give orders to any such officer or employee, either publicly or privately.”

SECTION 13. City Charter Section 3.03 is hereby deleted and replaced with the following language:

**“Sec. 3.03 – City Attorney.**

The mayor and council shall appoint a city attorney, together with such assistant city attorneys as may be authorized by ordinance. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a part; may be the prosecuting officer in the municipal court; shall attend the meetings of the council as directed; shall advise the council, mayor, and other officers and employees of the city concerning legal aspects of the city's affairs; shall approve as to form and legality all contracts, deeds, ordinances and resolutions having the force of law.”

SECTION 14. This Ordinance is intended to be severable. If any section, subsection, paragraph, sentence or word of this Ordinance is for any reason held to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence or word of this Ordinance irrespective of the invalidity of any other section, subsection, paragraph, sentence or word.

SECTION 15. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 16. This Ordinance shall become effective immediately upon its final adoption by the City Council at the second of two consecutive regular meetings.

First adopted March 6, 2018

SO ORDAINED, this 3<sup>rd</sup> day of April, 2018.

ATTEST:

**CITY COUNCIL,  
CITY OF CLARKSTON, GEORGIA**

By \_\_\_\_\_  
Tracy Ashby, City Clerk

\_\_\_\_\_  
Ted Terry, Mayor

Approved as to Form:

 3-27-18  
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Stephen G. Quinn, City Attorney