

The Senate Committee on State and Local Governmental Operations - General offered the following substitute to SB 333:

A BILL TO BE ENTITLED

AN ACT

1 To incorporate the City of Mulberry; to provide a charter; to provide for legislative findings;
2 to provide for boundaries and powers of the city; to provide for a governing authority of such
3 city and the powers, duties, authority, election, terms, term limits, vacancies, compensation,
4 expenses, qualifications, prohibitions, conflicts of interest, and suspension and removal from
5 office relative to members of such governing authority; to provide for inquiries and
6 investigations; to provide for oaths, organization, meetings, quorum, voting, rules, and
7 procedures; to provide for ordinances and codes; to provide additional notice and hearing
8 requirements; to provide for a mayor, mayor pro tempore, and certain duties, powers, and
9 other matters relative thereto; to prohibit council interference with administration; to provide
10 for administrative affairs and responsibilities; to provide for boards, commissions, and
11 authorities; to provide for a city attorney, a city clerk, and other personnel and matters
12 relating thereto; to provide for rules and regulations; to provide for a municipal court and the
13 judge or judges thereof and other matters relative to those judges; to provide for the court's
14 jurisdiction, powers, practices, and procedures; to provide for the right of certiorari; to
15 provide for elections; to provide for taxation, licenses, and fees; to provide for special
16 assessments; to provide for bonded and other indebtedness; to provide for auditing,
17 accounting, budgeting, and appropriations; to provide for city contracts and purchasing; to
18 provide for the conveyance of property and interests therein; to provide for bonds for

19 officials; to provide for prior ordinances and rules, pending matters, and existing personnel;
20 to provide for penalties; to provide for definitions and construction; to provide for other
21 matters relative to the foregoing; to provide for a referendum, effective dates, and automatic
22 repeal; to provide for mandatory execution of election and judicial remedies regarding failure
23 to comply; to provide effective dates and transitional provisions governing the transfer of
24 various functions and responsibilities from Gwinnett County to the City of Mulberry; to
25 provide for severability; to provide for effective dates; to repeal conflicting laws; and for
26 other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28 ARTICLE I.
29 INCORPORATION AND POWERS

30 SECTION 1.10.

31 Legislative findings.

32 The General Assembly of Georgia determines and finds that certain portions of
33 unincorporated northeastern Gwinnett County would benefit from gaining local control over
34 planning and zoning in their community through the creation of a municipal corporation
35 offering limited services, including planning and zoning, storm-water collection and disposal,
36 and code enforcement. The General Assembly of Georgia further determines and finds that
37 the citizens of such a municipal corporation would be best served by a limited municipal
38 government that cannot collect property taxes from its residents and that any other
39 nonproperty tax revenue sources be neutral with respect to cost burdens on homeowners.

40 SECTION 1.11.

41 Name.

42 This Act shall constitute the charter of the City of Mulberry. The city and the inhabitants
43 thereof are constituted and declared a body politic and corporate under the name and style
44 "City of Mulberry, Georgia," and by that name shall have perpetual succession.

45 SECTION 1.12.

46 City motto.

47 The motto of the City of Mulberry shall be "Non Sibi Sed Aliis."

48 SECTION 1.13.

49 Corporate boundaries.

50 (a) The boundaries of this city shall be those set forth and described in Appendix A of this
51 charter, and said Appendix A is incorporated into and made a part of this charter. The
52 boundaries of this city at all times shall be shown on a map, a written description, or any
53 combination thereof, to be retained permanently in the office of the city clerk and to be
54 designated, as the case may be: "Official Map (or Description) of the corporate limits of
55 the City of Mulberry, Georgia." Photographic, typed, or other copies of such map or
56 description certified by the city clerk shall be admitted as evidence in all courts and shall
57 have the same force and effect as with the original map or description.

58 (b) The city council may provide for the redrawing of any such map by ordinance to reflect
59 lawful changes in the corporate boundaries. A redrawn map shall supersede for all
60 purposes the entire map or maps which it is designated to replace.

61

SECTION 1.14.

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Powers and construction.

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(a) This city shall have all the powers possible for a city to have under the present or future Constitution or laws of this state as fully and completely as though they were specifically enumerated in this charter, except that the city shall not have the power to assess, levy, or collect ad valorem taxes on real or personal property within the corporate limits of the city.

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This city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

69

(b) The city shall exercise the powers granted to it under the present or future Constitution and laws of this state for the purposes of providing planning and zoning, code adoption and enforcement, and storm-water collection and disposal and those items related to the provision of such services and for the general administration of the city in providing such services.

74

(c) The provision of services and exercise of powers enumerated in this Section of this charter may be provided by the city contracting with service providers via intergovernmental agreements or contracts with private parties.

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(d) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention powers shall not be construed as limiting in any way the powers of this city.

80

SECTION 1.15.

81

Examples of powers.

82 Reserved.

83 SECTION 1.16.

84 Exercise of powers.

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

89 (b) No amendment to this Act by the city council pursuant to the home rule powers granted
90 by Chapter 35 of Title 36 of the O.C.G.A. shall be enforceable except upon ratification of
91 such amendment by the registered voters of the city at a referendum held by the governing
92 authority of the city and upon certification of the results of such referendum by the Secretary
93 of State.

94 ARTICLE II.

95 GOVERNMENT STRUCTURE

96 SECTION 2.10.

97 City council creation; number; election.

98 The governing authority of the city, except as otherwise specifically provided in this charter,
99 shall be vested in a city council to be composed of five councilmembers. The
100 councilmembers shall be elected in the manner provided by this charter.

SECTION 2.11.

City councilmembers;

Terms and qualifications for office.

(a) Except as otherwise provided in Article VIII of this charter for the initial terms of office, the members of the city council shall serve for terms of four years and until their respective successors are elected and qualified. The term of office of each councilmember shall begin on the first day of January immediately following the election of such councilmember unless general law authorizes or requires the term to begin at the first organizational meeting in January or upon some other date. No person shall be eligible to serve as councilmember unless that person shall have been a resident of the city for 12 months prior to the date of the election of councilmembers; each shall continue to reside therein during that person's period of service and to be registered and qualified to vote in municipal elections of this city. No person shall serve more than two consecutive terms as a councilmember.

(b) For the purposes of electing members of the city council, the city is divided into five districts. One councilmember residing in each district shall be elected from by the electors of the city residing in such district. The five numbered districts are described in Appendix B attached to and made a part of this Act and further identified as "User: H104 Plan Name: Mulberry-Dist-2024 Plan Type: Local:".

(c)(1) For the purposes of such plan:

(A) The term "VTD" shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia. The separate numeric designations in a district description which are underneath a VTD heading shall mean and describe individual Blocks within a VTD as provided in the report of the Bureau of the Census for the United States decennial census of 2020 for the State of Georgia; and

127 (B) Except as otherwise provided in the description of any district, whenever the
128 description of any district refers to a named city, it shall mean the geographical
129 boundaries of that city as shown on the census maps for the United States decennial
130 census of 2020 for the State of Georgia.

131 (2) Any part of the City of Mulberry as described in Appendix B which is not included
132 in any district described in this plan shall be included within that district contiguous to
133 such part which contains the least population according to the United States decennial
134 census of 2020 for the State of Georgia.

135 (3) Any part of the City of Mulberry as described in Appendix B as being included in a
136 particular district shall nevertheless not be included within such district if such part is not
137 contiguous to such district. Such noncontiguous part shall instead be included within that
138 district contiguous to such part which contains the least population according to the
139 United States decennial census of 2020 for the State of Georgia.

140 (4) If any area included within the descriptions of District 1, District 2, District 3,
141 District 4, or District 5 is on the effective date of this Act within the municipal boundaries
142 of another municipality or within a county other than Gwinnett County, such area shall
143 not be included within the district descriptions of such districts.

144 SECTION 2.12.

145 Vacancy; filling of vacancies; suspensions.

146 (a) Vacancies. The office of councilmember shall become vacant upon such person's
147 failing or ceasing to reside in the city, death, resignation, forfeiture of office, or upon the
148 occurrence of any event specified by the Constitution, Title 45 of the O.C.G.A., or such
149 other applicable laws as are or may hereafter be enacted.

150 (b) Filling of vacancies. A vacancy in the office of councilmember shall be filled for the
151 remainder of the unexpired term, if any, by appointment by the remaining councilmembers

152 if less than 12 months remain in the unexpired term, otherwise by an election as provided
153 for in Section 5.14 of this charter and Titles 21 and 45 of the O.C.G.A. or such other laws
154 as are or may hereafter be enacted.

155 (c) Suspension. Upon the suspension from office of councilmember in any manner
156 authorized by the general laws of the State of Georgia, the city council or those remaining
157 shall appoint a successor for the duration of the suspension. If the suspension becomes
158 permanent, then the office shall become vacant and shall be filled for the remainder of the
159 unexpired term, if any, as provided for in this charter.

160 SECTION 2.13.

161 Compensation and expenses.

162 (a) The mayor shall receive an initial salary of \$9,000 per year. Each councilmember shall
163 receive an initial salary of \$8,000.00 per year. The councilmembers shall be paid in equal
164 monthly installments from the funds of the municipality.

165 (b) The councilmembers may alter such compensation for their services as provided by
166 law.

167 (c) The councilmembers shall be reimbursed for actual expenses necessarily incurred in
168 connection with their service.

169 SECTION 2.14.

170 Conflicts of interest; holding other offices.

171 (a) Elected and appointed officers of the city are trustees and servants of the residents of
172 the city and shall act in a fiduciary capacity for the benefit of such residents.

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

- 175 (1) Engage in any business or transaction or have a financial or other personal interest,
176 direct or indirect, which is incompatible with the proper discharge of that person's official
177 duties or which would tend to impair the independence of that person's judgment or
178 action in the performance of that person's official duties;
- 179 (2) Engage in or accept private employment or render services for private interests when
180 such employment or service is incompatible with the proper discharge of that person's
181 official duties or would tend to impair the independence of that person's judgment or
182 action in the performance of that person's official duties;
- 183 (3) Disclose confidential information, including information obtained at meetings which
184 are closed pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property,
185 government, or affairs of the governmental body by which that person is engaged without
186 proper legal authorization or use such information to advance the financial or other
187 private interest of that person or others;
- 188 (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise,
189 from any person, firm, or corporation which to that person's knowledge is interested,
190 directly or indirectly, in any manner whatsoever, in business dealings with the
191 governmental body by which that person is engaged; provided, however, that an elected
192 official who is a candidate for public office may accept campaign contributions and
193 services in connection with any such campaign;
- 194 (5) Represent other private interests in any action or proceeding against this city or any
195 portion of its government; or
- 196 (6) Vote or otherwise participate in the negotiation or in the making of any contract with
197 any business or entity in which that person has a financial interest.
- 198 (c) Disclosure. Any elected official, appointed officer, or employee who shall have any
199 financial interest, directly or indirectly, in any contract or matter pending before or within
200 any department of the city shall disclose such interest to the city council. Any
201 councilmember who has a financial interest in any matter pending before the city council

202 shall disclose such interest and such disclosure shall be entered on the records of the city
203 council, and that person shall disqualify himself or herself from participating in any
204 decision or vote relating thereto. Any elected official, appointed officer, or employee of
205 any agency or political entity to which this charter applies who shall have any financial
206 interest, directly or indirectly, in any contract or matter pending before or within such
207 entity shall disclose such interest to the governing body of such agency or entity.

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

212 (e) Contracts voidable and rescindable. Any violation of this section which occurs with
213 the knowledge, express or implied, of a party to a contract or sale shall render such contract
214 or sale voidable at the option of the city council.

215 (f) Ineligibility of elected official. Except where authorized by law, no councilmember
216 shall hold any other elective or compensated appointive office in the city or otherwise be
217 employed by said government or any agency thereof during the term for which that person
218 was elected. No former councilmember shall hold any compensated appointive office in
219 the city until one year after the expiration of the term for which that person was elected.

220 (g) Political activities of certain officers and employees. No appointed officer and no
221 employee of the city shall continue in such employment upon qualifying as a candidate for
222 nomination or election to any public office. No employee of the city shall continue in such
223 employment upon election to any public office in this city or any other public office which
224 is inconsistent, incompatible, or in conflict with the duties of the city employee. Such
225 determination shall be made by the city council either immediately upon election or at any
226 time such conflict may arise.

227 (h) Penalties for violation.

228 (1) Any city officer or employee who knowingly conceals such financial interest or
229 knowingly violates any of the requirements of this section shall be guilty of malfeasance
230 in office or position and shall be deemed to have forfeited that person's office or position.

231 (2) Any officer or employee of the city who shall forfeit that person's office or position
232 as described in paragraph (1) of this subsection shall be ineligible for appointment or
233 election to or employment in a position in the city government for a period of three years
234 thereafter.

235 SECTION 2.15.

236 Inquiries and investigations.

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

243 SECTION 2.16.

244 General power and authority of the city council.

245 (a) Except as otherwise provided by law or this charter, the city council shall be vested
246 with all the powers of government of this city.

247 (b) In addition to all other powers conferred upon it by law, the council shall have the
248 authority to adopt and provide for the execution of such ordinances, resolutions, rules, and
249 regulations, not inconsistent with this charter and the Constitution and the laws of the State
250 of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order,

251 protection of life and property, health, welfare, sanitation, comfort, convenience,
252 prosperity, or well-being of the inhabitants of the City of Mulberry and may enforce such
253 ordinances by imposing penalties for violation thereof.

254 SECTION 2.17.
255 Organizational meetings.

256 Unless otherwise provided by ordinance, the city council shall hold an organizational
257 meeting on the first Tuesday in January of each even-numbered year. The meeting shall be
258 called to order by the city clerk and the oath of office shall be administered to the newly
259 elected councilmembers as follows:

260 "I do solemnly (swear) (affirm) that I will faithfully perform the duties of councilmember
261 of this city and that I will support and defend the charter thereof as well as the Constitution
262 and laws of the State of Georgia and the United States of America."

263 SECTION 2.18.
264 Meetings.

265 (a) The city council shall hold regular meetings at such times and places as shall be
266 prescribed by ordinance.

267 (b) Special meetings of the city council may be held on call of the mayor or three
268 councilmembers. Notice of such special meeting shall be served on all other
269 councilmembers personally, or by telephone personally, at least 48 hours in advance of the
270 meeting. Such notice to councilmembers shall not be required if all councilmembers are
271 present when the special meeting is called. Such notice of any special meeting may be
272 waived by a councilmember in writing before or after such a meeting and attendance at the
273 meeting shall also constitute a waiver of notice on any business transacted in such

274 councilmember's presence. Only the business stated in the call may be transacted at the
275 special meeting.

276 (c) All meetings of the city council shall be public to the extent required by law, and notice
277 to the public of special meetings shall be made as fully as is reasonably possible as
278 provided by Code Section 50-14-1 of the O.C.G.A. or other such applicable laws as are or
279 may hereafter be enacted.

280 SECTION 2.19.

281 Rules of procedure.

282 (a) The city council shall adopt its rules of procedure and order of business consistent with
283 the provisions of this charter and shall provide for keeping of a journal of its proceedings,
284 which shall be a public record.

285 (b) All committees and committee chairpersons and officers of the city council shall be
286 appointed by the mayor and shall serve at the pleasure of the mayor. The mayor shall have
287 the power to appoint new members to any committee at any time.

288 SECTION 2.20.

289 Quorum; voting.

290 Three councilmembers shall constitute a quorum and shall be authorized to transact
291 business of the city council. Voting on the adoption of ordinances shall be by voice vote
292 and the vote shall be recorded in the journal, but any councilmember shall have the right
293 to request a roll-call vote and such vote shall be recorded in the journal. Except as
294 otherwise provided in this charter, the affirmative vote of three councilmembers shall be
295 required for the adoption of any ordinance, resolution, or motion. An abstention shall be

296 counted as an affirmative vote; provided, however, that an abstention required by
297 Section 2.14 of this charter shall not count as either an affirmative or negative vote.

298 SECTION 2.21.

299 Ordinance form; procedures.

300 (a) Every proposed ordinance shall be introduced in writing and in the form required for
301 final adoption. No ordinance shall contain a subject which is not expressed in its title. The
302 enacting clause shall be "It is hereby ordained by the governing authority of the City of
303 Mulberry..." and every ordinance shall so begin.

304 (b) An ordinance may be introduced by any councilmember and be read at a regular or
305 special meeting of the city council. Ordinances shall be considered and adopted or rejected
306 by the city council in accordance with the rules which it shall establish; provided, however,
307 that an ordinance shall not be adopted the same day it is introduced, except for emergency
308 ordinances provided for in Section 2.23 of this charter. Upon introduction of any
309 ordinance, the clerk shall as soon as possible distribute a copy to each councilmember and
310 shall file a reasonable number of copies in the office of the clerk and at such other public
311 places as the city council may designate.

312 SECTION 2.22.

313 Action requiring an ordinance.

314 (a) Acts of the city council which have the force and effect of law shall be enacted by
315 ordinance.

316 (b) In addition to any other notice or hearing provision of state law, prior to the adoption
317 of any ordinance or resolution changing any rate of taxation, amending the city's land use
318 plan, or approving the issuance of a general obligation or revenue bond the city shall:

319 (1) Publish notice of such proposed action for two consecutive weeks in the legal organ
320 of the county;

321 (2) Publish notice of such proposed action on any and all websites and social media
322 accounts maintained by the city; and

323 (3) Conduct two public hearings on the proposed actions.

324 SECTION 2.23.

325 Emergencies.

326 (a) To meet a public emergency affecting life, health, property, or public peace, the city
327 council may convene on call of the mayor or three councilmembers and may promptly
328 adopt an emergency ordinance, but such ordinance may not levy taxes; regulate the rate
329 charged by any public utility for its services; or authorize the borrowing of money except
330 for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the
331 form prescribed for ordinances generally, except that it shall be plainly designated as an
332 emergency ordinance and shall contain, after the enacting clause, a declaration stating that
333 an emergency exists and describing the emergency in clear and specific terms. An
334 emergency ordinance may be adopted, with or without amendment, or rejected at the
335 meeting at which it is introduced, but the affirmative vote of at least three councilmembers
336 shall be required for adoption. It shall become effective upon adoption or at such later time
337 as it may specify. Every emergency ordinance shall automatically stand repealed 30 days
338 following the date upon which it was adopted, but this shall not prevent reenactment of the
339 ordinance in the manner specified in this section if the emergency still exists. An

340 emergency ordinance may also be repealed by adoption of a repealing ordinance in the
341 same manner specified in this section for adoption of emergency ordinances.

342 (b) Such meetings shall be open to the public to the extent required by law and notice to
343 the public of emergency meetings shall be made as fully as is reasonably possible in
344 accordance with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as
345 are or may hereafter be enacted.

346 SECTION 2.24.

347 Codes of technical regulations.

348 (a) The city council may adopt any standard code of technical regulations by reference
349 thereto in an adopting ordinance. The procedure and requirements governing such
350 adopting ordinance shall be as prescribed for ordinances generally except that: (1) the
351 requirements of subsection (b) of Section 2.21 of this charter for distribution and filing of
352 copies of the ordinance shall be construed to include copies of any code of technical
353 regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of
354 technical regulations, as well as the adopting ordinance, shall be authenticated and recorded
355 by the clerk pursuant to Section 2.25 of this charter.

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

358 SECTION 2.25.

359 Signing; authenticating;
360 recording; codification; printing.

361 (a) The clerk shall authenticate by the clerk's signature and record in full in a properly
362 indexed book kept for that purpose all ordinances adopted by the city council.

363 (b) The city council shall provide for the preparation of a general codification of all the
364 ordinances of the city having the force and effect of law. The general codification shall be
365 adopted by the city council by ordinance and shall be published promptly, together with
366 all amendments thereto and such codes of technical regulations and other rules and
367 regulations as the city council may specify. This compilation shall be known and cited
368 officially as "The Code of the City of Mulberry, Georgia." Copies of the code shall be
369 furnished to all officers, departments, and agencies of the city and made available for
370 purchase by the public at a reasonable price as fixed by the city council.

371 (c) The city council shall cause each ordinance and each amendment to this charter to be
372 printed promptly following its adoption, and the printed ordinances and charter
373 amendments shall be made available for purchase by the public at reasonable prices to be
374 fixed by the city council. Following publication of the first code under this charter and at
375 all times thereafter, the ordinances and charter amendments shall be printed in substantially
376 the same style as the code currently in effect and shall be suitable in form for incorporation
377 therein. The city council shall make such further arrangements as deemed desirable with
378 reproduction and distribution of any current changes in or additions to codes of technical
379 regulations and other rules and regulations included in the code.

380 SECTION 2.26.

381 City manager; appointment; qualifications; compensation.

382 Reserved.

383 SECTION 2.27.

384 Removal of city manager.

385 Reserved.

386 SECTION 2.28.

387 Acting city manager.

388 Reserved.

389 SECTION 2.29.

390 Powers and duties of the city manager.

391 Reserved.

392 SECTION 2.30.

393 Council interference with administration.

394 The city council shall act in all matters as a body, and no councilmember shall seek
395 individually to influence the official acts of any officer or employee of the city, or direct or
396 request the appointment of any person to, or his or her removal from, any office or position
397 of employment, or to interfere in any way with the performance of the duties by city officers
398 or employees.

399 SECTION 2.31.

400 Appointment of mayor; forfeiture.

401 The mayor of the city shall be appointed from among the councilmembers by a majority vote
402 of the councilmembers at the first regular meeting after the newly elected councilmembers
403 have taken office following each election and the mayor shall be subject to removal and
404 replacement at any time by a majority vote of the councilmembers.

405 SECTION 2.32.

406 Mayor pro tem.

407 The city council at the first regular meeting after the newly elected councilmembers have
408 taken office following each election shall elect a councilmember to serve as mayor pro tem.
409 The mayor pro tem shall be elected by a majority vote of the city council. The mayor pro
410 tem shall assume the duties and powers of the mayor during the mayor's physical or mental
411 disability, suspension from office, or absence. Any such disability of the mayor shall be
412 declared by a majority vote of the city council. The mayor pro tem shall sign all contracts
413 and ordinances in which the mayor has a disqualifying financial interest as provided in
414 Section 2.14 of this charter. When acting as mayor, the mayor pro tem shall be entitled to
415 vote as a member of the council.

416 SECTION 2.33.

417 Powers and duties of mayor.

418 The mayor shall:

- 419 (1) Preside at all meetings of the city council;
- 420 (2) Be the head of the city for the purpose of service of process and for ceremonial
421 purposes, and be the official spokesperson for the city and the chief advocate of policy;
- 422 (3) Have the power to administer oaths and to take affidavits;
- 423 (4) Sign as a matter of course on behalf of the city all written and approved contracts,
424 ordinances, resolutions, and other instruments executed by the city which by law are
425 required to be in writing;
- 426 (5) Vote on matters before the city council; and
- 427 (6) Prepare and submit to the city council a recommended annual operating budget and
428 recommended capital budget.

429

ARTICLE III.

430

ADMINISTRATIVE AFFAIRS

431

SECTION 3.10.

432

Administrative and service departments.

433 (a) Except as otherwise provided in this charter, the city council by ordinance shall
434 prescribe the functions or duties and establish, abolish, alter, consolidate, or leave vacant
435 all nonelective offices, positions of employment, departments, and agencies of the city as
436 necessary for the proper administration of the affairs and government of this city.

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

440 (c) All appointed officers and directors of departments shall receive such compensation
441 as prescribed by ordinance.

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

446 (e) All appointed officers and directors shall be employees at will and subject to removal
447 or suspension at any time by the city council otherwise provided by law or ordinance

SECTION 3.11.

448
449

Boards, commissions, and authorities.

450 (a) The city council shall create by ordinance such boards, commissions, and authorities
451 to fulfill any investigative, quasi-judicial, or quasi-legislative function the city council
452 deems necessary and shall by ordinance establish the composition, period of existence,
453 duties, and powers thereof.

454 (b) All members of boards, commissions, and authorities of the city shall be appointed by
455 the city council for such terms of office and in such manner as shall be provided by
456 ordinance, except where other appointing authority, terms of office, or manner of
457 appointment is prescribed by this charter or by law.

458 (c) The city council by ordinance may provide for the compensation and reimbursement
459 for actual and necessary expenses of the members of any board, commission, or authority.

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

462 (e) Any vacancy on a board, commission, or authority of the city shall be filled for the
463 unexpired term in the manner prescribed in this charter for original appointment, except as
464 otherwise provided by this charter or by law.

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

469 (g) All members of boards, commissions, or authorities of the city serve at will and may
470 be removed at any time by the city council unless otherwise provided by law.

471 (h) Except as otherwise provided by this charter or by law, each board, commission, or
472 authority of the city shall elect one of its members as chairperson and one member as vice
473 chairperson and may elect as its secretary one of its own members or may appoint as

474 secretary an employee of the city. Each board, commission, or authority of the city
475 government may establish such bylaws, rules, and regulations, not inconsistent with this
476 charter, ordinances of the city, or law, as it deems appropriate and necessary for the
477 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
478 regulations shall be filed with the clerk of the city.

479 SECTION 3.12.

480 City attorney.

481 The city council shall appoint a city attorney, together with such assistant city attorneys as
482 may be authorized, and shall provide for the payment of such attorney or attorneys for
483 services rendered to the city. The city attorney shall be responsible for providing for the
484 representation and defense of the city in all litigation in which the city is a party; may be the
485 prosecuting officer in the municipal court; shall attend the meetings of the city council as
486 directed; shall advise the city council and other officers and employees of the city concerning
487 legal aspects of the city's affairs; and shall perform such other duties as may be required by
488 virtue of such person's position as city attorney.

489 SECTION 3.13.

490 City clerk.

491 The city council shall appoint a city clerk who shall not be a councilmember. The city clerk
492 shall be custodian of the official city seal and city records; maintain city council records
493 required by this charter; and perform such other duties as may be required by the city
494 council.

495 SECTION 3.14.

496 Position classification and pay plans.

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

503 SECTION 3.15.

504 Personnel policies.

505 (a) All employees serve at will and may be removed from office at any time unless
506 otherwise provided by ordinance.

507 (b) No person who has an immediate family member sitting on the city council shall be
508 eligible for employment by the city or for appointment to any board or authority of the city.
509 As used in this paragraph, the term "immediate family member" means a spouse, child,
510 sibling, or parent or the spouse of a child, sibling, or parent.

511 ARTICLE IV.

512 JUDICIAL BRANCH

513 SECTION 4.10.

514 Creation; name.

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

516 SECTION 4.11.

517 Chief judge; associate judge.

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

520 (b) No person shall be qualified or eligible to serve as a judge on the municipal court
521 unless that person shall have attained the age of 21 years and shall be a member of the State
522 Bar of Georgia and shall possess all qualifications required by law. All judges shall be
523 appointed by the city council and shall serve a term as provided by law and until a
524 successor is appointed and qualified.

525 (c) Compensation of the judges shall be fixed by ordinance.

526 (d) Judges may be removed from office as provided by law.

527 (e) Before assuming office, each judge shall take an oath, given by the mayor, that such
528 judge will honestly and faithfully discharge the duties of the judge's office to the best of
529 the judge's ability and without fear, favor, or partiality. The oath shall be entered upon the
530 minutes of the city council journal required in Section 2.19 of this charter.

531 SECTION 4.12.

532 Convening.

533 The municipal court shall be convened at regular intervals as provided by ordinance.

534 SECTION 4.13.

535 Jurisdiction; powers.

536 (a) The municipal court shall try and punish violations of this charter and city ordinances.

537 (b) The municipal court shall have authority to punish those in its presence for contempt,
538 provided that such punishment shall not exceed \$200.00 or ten days in jail.

539 (c) The municipal court may fix punishment for offenses within its jurisdiction not
540 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and
541 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as
542 now or hereafter provided by law.

543 (d) The municipal court shall have authority to establish a schedule of fees to defray the
544 cost of operation and shall be entitled to reimbursement of the cost of meals, transportation,
545 and caretaking of prisoners bound over to superior courts for violations of state law.

546 (e) The municipal court shall have authority to establish bail and recognizances to ensure
547 the presence of those charged with violations before such court and shall have discretionary
548 authority to accept cash or personal or real property as surety for the appearance of persons
549 charged with violations. Whenever any person shall give bail for that person's appearance
550 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by
551 the judge presiding at such time and an execution issued thereon by serving the defendant
552 and the defendant's sureties with a rule nisi at least two days before a hearing on the rule
553 nisi. In the event that cash or property is accepted in lieu of bond for security for the
554 appearance of a defendant at trial, and if such defendant fails to appear at the time and
555 place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited
556 to the city, or the property so deposited shall have a lien against it for the value forfeited
557 which lien shall be enforceable in the same manner and to the same extent as a lien for city
558 property taxes.

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

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

565 (h) Each judge of the municipal court shall be authorized to issue warrants for the arrest
566 of persons charged with offenses against any ordinance of the city, and each judge of the
567 municipal court shall have the same authority as a magistrate of the state to issue warrants
568 for offenses against state laws committed within the city.

569 SECTION 4.14.

570 Certiorari.

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

575 SECTION 4.15.

576 Rules for court.

577 With the approval of the city council, the judge shall have full power and authority to make
578 reasonable rules and regulations necessary and proper to secure the efficient and successful
579 administration of the municipal court; provided, however, that the city council may adopt in
580 part or in toto the rules and regulations applicable to municipal courts. The rules and
581 regulations made or adopted shall be filed with the city clerk, shall be available for public
582 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
583 proceedings at least 48 hours prior to such proceedings.

584 ARTICLE V.
585 ELECTIONS AND REMOVAL

586 SECTION 5.10.
587 Applicability of general law.

588 All primaries and elections shall be held and conducted in accordance with Chapter 2 of
589 Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

590 SECTION 5.11.
591 Regular elections; time for holding.

592 Except as otherwise provided in Article VIII of this charter for the initial elections, there
593 shall be a municipal general election every four years in odd-numbered years on the Tuesday
594 next following the first Monday in November. There shall be elected five councilmembers
595 at each election so that a continuing body is created.

596 SECTION 5.12.
597 Nonpartisan elections.

598 Political parties shall not conduct primaries for city offices and all names of candidates for
599 city offices shall be listed without party labels.

600 SECTION 5.13.
601 Election by majority.

602 The candidate receiving a majority of the votes cast for any city office shall be elected.

603 SECTION 5.14.

604 Special elections; vacancies.

605 In the event that the office of councilmember shall become vacant as provided in
606 Section 2.12 of this charter, the city council or those councilmembers remaining shall order
607 a special election to fill the balance of the unexpired term of such official; provided,
608 however, that, if such vacancy occurs within 12 months of the expiration of the term of that
609 office, the city council or those members remaining shall appoint a successor for the
610 remainder of the term. In all other respects, the special election shall be held and conducted
611 in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as
612 now or hereafter amended.

613 SECTION 5.15.

614 Other provisions.

615 Except as otherwise provided by this charter, the city council shall, by ordinance, prescribe
616 such rules and regulations as it deems appropriate to fulfill any options and duties under
617 Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code."

618 SECTION 5.16.

619 Removal of officers.

620 (a) A councilmember or other appointed officers provided for in this charter shall be
621 removed from office for any one or more of the causes provided in Title 45 of the O.C.G.A.
622 or such other applicable laws as are or may hereafter be enacted.

623 (b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished
624 by one of the following methods:

625 (1) Following a hearing at which an impartial panel shall render a decision. In the event
626 an elected officer is sought to be removed by the action of the city council, such officer
627 shall be entitled to a written notice specifying the ground or grounds for removal and to
628 a public hearing which shall be held not less than ten days after the service of such
629 written notice. The city council shall provide by ordinance for the manner in which such
630 hearings shall be held. Any elected officer sought to be removed from office as provided
631 in this section shall have the right of appeal from the decision of the city council to the
632 Superior Court of Gwinnett County. Such appeal shall be governed by the same rules as
633 govern appeals to the superior court from the probate court; or
634 (2) By an order of the Superior Court of Gwinnett County following a hearing on a
635 complaint seeking such removal brought by any resident of the City of Mulberry.

636 ARTICLE VI.
637 FINANCE

638 SECTION 6.10.
639 Property tax.

640 The city council shall not assess, levy, or collect any ad valorem taxes on any real or personal
641 property within the corporate limits of the city.

642 SECTION 6.11.
643 Millage rate and due dates.

644 The city council shall not establish a millage rate in excess of 0 mills.

645 SECTION 6.12.

646 Occupation and business taxes.

647 The city council by ordinance shall have the power to levy such occupation or business taxes
648 as are not denied by law. The city council may classify businesses, occupations, or
649 professions for the purpose of such taxation in any way which may be lawful and may
650 compel the payment of such taxes as provided in Section 6.18 of this charter.

651 SECTION 6.13.

652 Licenses; permits; fees.

653 The city council by ordinance shall have the power to require businesses or practitioners
654 doing business in this city to obtain a permit for such activity from the city and pay a
655 regulatory fee for such permit as provided by general law. Such fees shall reflect the total
656 cost to the city of regulating the activity and, if unpaid, shall be collected as provided in
657 Section 6.18 of this charter.

658 SECTION 6.14.

659 Franchises.

660 Reserved.

661 SECTION 6.15.

662 Service charges.

663 Reserved.

664 SECTION 6.16.

665 Special assessments.

666 The city council by ordinance shall have the power to assess and collect the cost of
667 constructing, reconstructing, widening, or improving any public way, street, sidewalk,
668 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property
669 owners. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

670 SECTION 6.17.

671 Construction; other taxes.

672 Reserved.

673 SECTION 6.18.

674 Collection of delinquent taxes and fees.

675 The city council by ordinance may provide generally for the collection of delinquent taxes,
676 fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by
677 whatever reasonable means as are not precluded by law. This shall include providing for the
678 dates when the taxes or fees are due; late penalties or interest; issuance and execution of
679 fi. fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the
680 persons required to pay the taxes or fees imposed; revoking city permits for failure to pay any
681 city taxes or fees; and providing for the assignment or transfer of tax executions.

682 SECTION 6.19.

683 General obligation bonds.

684 The city council shall have the power to issue bonds for the purpose of raising revenue to
685 carry out any project, program, or venture authorized under this charter or the laws of the
686 state. Such bonding authority shall be exercised in accordance with the laws governing bond
687 issuance by municipalities in effect at the time said issue is undertaken.

688 SECTION 6.20.

689 Revenue bonds.

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

693 SECTION 6.21.

694 Short-term loans.

695 The city may obtain short-term loans and must repay such loans not later than December 31
696 of each year, unless otherwise provided by law.

697 SECTION 6.22.

698 Lease-purchase contracts.

699 The city may enter into multiyear lease, purchase, or lease-purchase contracts for the
700 acquisition of goods, materials, real and personal property, services, and supplies, provided
701 the contract terminates without further obligation on the part of the municipality at the close

702 of the calendar year in which it was executed and at the close of each succeeding calendar
703 year for which it may be renewed. Contracts must be executed in accordance with the
704 requirements of Code Section 36-60-13 of the O.C.G.A., or other such applicable laws as are
705 or may hereafter be enacted.

706 SECTION 6.23.

707 Fiscal year.

708 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
709 budget year and the year for financial accounting and reporting of each and every office,
710 department, agency, and activity of the city government.

711 SECTION 6.24.

712 Budget ordinance.

713 The city council shall provide an ordinance on the procedures and requirements for the
714 preparation and execution of an annual operating budget, a capital improvement plan, and
715 a capital budget, including requirements as to the scope, content, and form of such budgets
716 and plans. The city council shall also comply with the budgeting and auditing provisions of
717 Chapter 81 of Title 36 of the O.C.G.A.

718 SECTION 6.25.

719 Operating budget.

720 On or before a date fixed by the city council but not later than 60 days prior to the beginning
721 of each fiscal year, the mayor shall submit to the city council a proposed operating budget
722 for the ensuing fiscal year. The budget shall be accompanied by a message from the mayor

723 containing a statement of the general fiscal policies of the city, the important features of the
724 budget, explanations of major changes recommended for the next fiscal year, a general
725 summary of the budget, and other pertinent comments and information. The operating
726 budget and the capital budget provided for in Section 6.29 of this charter, the budget
727 message, and all supporting documents shall be filed in the office of the city clerk and shall
728 be open to public inspection.

729 SECTION 6.26.

730 Action by city council on budget.

731 (a) The councilmembers may amend the operating budget proposed by the mayor, except
732 that the budget as finally amended and adopted must provide for all expenditures required
733 by state law or by other provisions of this charter and for all debt service requirements for
734 the ensuing fiscal year. The total appropriations from any fund shall not exceed the
735 estimated fund balance, reserves, and revenues.

736 (b) The city council by ordinance shall adopt the final operating budget for the ensuing
737 fiscal year not later than 15 days prior to the end of the current fiscal year. If the city
738 council fails to adopt the budget by said date, the amounts appropriated for operation for
739 the then current fiscal year shall be deemed adopted for the ensuing fiscal year on a
740 month-to-month basis, with all items prorated accordingly, until such time as the city
741 council adopts a budget for the ensuing fiscal year. Adoption of the budget shall take the
742 form of an appropriations ordinance setting out the estimated revenues in detail by sources
743 and making appropriations according to fund and by organizational unit, purpose, or
744 activity as set out in the budget preparation ordinance adopted pursuant to Section 6.24 of
745 this charter.

746 (c) The amount set out in the adopted operating budget for each organizational unit shall
747 constitute the annual appropriation for such, and no expenditure shall be made or

748 encumbrance created in excess of the otherwise unencumbered balance of the
749 appropriations or allotment thereof to which it is chargeable.

750 SECTION 6.27.

751 Levy of taxes.

752 The city council shall levy by ordinance such taxes as are necessary and consistent with this
753 Act. The taxes and tax rates set by such ordinance shall be such that reasonable estimates
754 of revenues from such levy shall at least be sufficient, together with other anticipated
755 revenues, fund balances, and applicable reserves, to equal the total amount appropriated for
756 each of the several funds set forth in the annual operating budget for defraying the expenses
757 of the general government of this city.

758 SECTION 6.28.

759 Changes in appropriations.

760 The city council by ordinance may make changes in the appropriations contained in the
761 current operating budget at any regular meeting or special or emergency meeting called for
762 such purpose, but any additional appropriations may be made only from an existing
763 unexpended surplus.

764 SECTION 6.29.

765 Capital improvements.

766 (a) On or before the date fixed by the city council, but not later than 60 days prior to the
767 beginning of each fiscal year, the mayor shall submit to the city council a proposed capital
768 improvements plan with a recommended capital budget containing the means of financing

769 the improvements proposed for the ensuing fiscal year. The city council shall have power
770 to accept, with or without amendments, or reject the proposed plan and budget. The city
771 council shall not authorize an expenditure for the construction of any building, structure,
772 work, or improvement unless the appropriations for such project are included in the capital
773 budget, except to meet a public emergency as provided in Section 2.23 of this charter.

774 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
775 year not later than December 15 of each year. No appropriation provided for in a prior
776 capital budget shall lapse until the purpose for which the appropriation was made shall
777 have been accomplished or abandoned; provided, however, that the mayor may submit
778 amendments to the capital budget at any time during the fiscal year, accompanied by
779 recommendations. Any such amendments to the capital budget shall become effective only
780 upon adoption by ordinance.

781 SECTION 6.30.

782 Audits.

783 There shall be an annual independent audit of all city accounts, funds, and financial
784 transactions by a certified public accountant selected by the city council. The audit shall be
785 conducted according to generally accepted auditing principles. Any audit of any funds by
786 the state or federal governments may be accepted as satisfying the requirements of this
787 charter. Copies of annual audit reports shall be available at printing costs to the public.

788 SECTION 6.31.

789 Procurement and property management.

790 No contract with the city shall be binding on the city unless:

791 (1) It is in writing;

- 792 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
793 course, is signed by the city attorney to indicate such drafting or review; and
794 (3) It is made or authorized by the city council and such approval is entered in the city
795 council journal of proceedings pursuant to Section 2.19 of this charter.

796 SECTION 6.32.
797 Purchasing.

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

800 SECTION 6.33.
801 Sale and lease of property.

- 802 (a) The city council may sell and convey or lease any real or personal property owned or
803 held by the city for governmental or other purposes as now or hereafter provided by law.
804 (b) The city council may quitclaim any rights it may have in property not needed for public
805 purposes upon report by the mayor and adoption of a resolution, both finding that the
806 property is not needed for public or other purposes and that the interest of the city has no
807 readily ascertainable monetary value.
808 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place
809 of the city a small parcel or tract of land is cut off or separated by such work from a larger
810 tract or boundary of land owned by the city, the city council may authorize the mayor to
811 sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining
812 property owner or owners where such sale and conveyance facilitates the highest and best
813 use of the abutting owner's property. Included in the sales contract shall be a provision for
814 the rights of way of said street, avenue, alley, or public place. Each abutting property

815 owner shall be notified of the availability of the property and given the opportunity to
816 purchase said property under such terms and conditions as set out by ordinance. All deeds
817 and conveyances heretofore and hereafter so executed and delivered shall convey all title
818 and interest the city has in such property, notwithstanding the fact that no public sale after
819 advertisement was or is hereafter made.

820 SECTION 6.34.
821 Apportionment of revenue.

822 Except as otherwise agreed pursuant to Chapter 70 of Title 36 of the O.C.G.A., the city is
823 authorized to pay all revenues collected by Gwinnett County on behalf of the city to the
824 county in exchange for continuation of services during the transition period provided in
825 Section 8.11 of this charter and beyond, with the exception of fines collected in municipal
826 court.

827 ARTICLE VII.
828 GENERAL PROVISIONS

829 SECTION 7.10.
830 Bonds for officials.

831 The officers and employees of this city, both elected and appointed, shall execute such surety
832 or fidelity bonds in such amounts and upon such terms and conditions as the city council
833 shall from time to time require by ordinance or as may be provided by law.

834 SECTION 7.11.

835 Construction and definitions.

836 (a) Section captions in this charter are informative only and are not to be considered as a
837 part thereof.

838 (b) The word "shall" is mandatory and the word "may" is permissive.

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

841 ARTICLE VIII.

842 REFERENDUM AND INITIAL ELECTIONS

843 SECTION 8.10.

844 Referendum and initial election.

845 (a) The election superintendent of Gwinnett County shall call a special election for the
846 purpose of submitting this Act to the qualified voters of the proposed City of Mulberry for
847 approval or rejection. The superintendent shall set the date of such election concurrent
848 with the general primary election in 2024. The superintendent shall issue the call for such
849 election at least 30 days prior to the date thereof. The superintendent shall cause the date
850 and purpose of the election to be published once a week for two weeks immediately
851 preceding the date thereof in the official organ of Gwinnett County. The ballot shall have
852 written or printed thereon the words:

853 "() YES Shall the Act incorporating the City of Mulberry in Gwinnett County

854 () NO according to the charter contained in the Act be approved?"

855 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons
856 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes

857 cast on such question are for approval of the Act, it shall become of full force and effect
858 as provided in Section 8.11 of this charter, otherwise it shall be void and of no force and
859 effect.

860 The initial expense of such election shall be borne by Gwinnett County. Within two years
861 after the elections if the incorporation is approved, the City of Mulberry shall reimburse
862 Gwinnett County for the actual cost of printing and personnel services for such election and
863 for the initial election of the councilmembers pursuant to this charter. It shall be the
864 election superintendent's duty to certify the result thereof to the Secretary of State. The
865 provisions of this section shall be mandatory upon the election superintendent and are not
866 intended as directory. If the election superintendent fails or refuses to comply with this
867 section, any elector of Gwinnett County may apply for a writ of mandamus to compel the
868 election superintendent to perform his or her duties under this section. If the court finds
869 that the election superintendent has not complied with this section, the court shall fashion
870 appropriate relief requiring the election superintendent to call and conduct such election
871 on the date required by this section or on the next date authorized for special elections
872 provided for in Code Section 21-2-540 of the O.C.G.A.

873 (b) For the purposes of the referendum election provided for in subsection (a) of this
874 section and for the purposes of the special election of the City of Mulberry to be held on
875 the Tuesday after the first Monday in November, 2024, the qualified electors of the City
876 of Mulberry shall be those qualified electors of Gwinnett County residing within the
877 corporate limits of the City of Mulberry as described by Appendix A of this charter. At
878 subsequent municipal elections, the qualified electors of the City of Mulberry shall be
879 determined pursuant to the authority of Chapter 2 of Title 21 of the O.C.G.A. known as the
880 "Georgia Election Code." For the purpose of electing the initial councilmembers at the
881 special election of the City of Mulberry to be held on the Tuesday after the first Monday
882 in November, 2024, a person shall be eligible to serve as a councilmember if that person

883 has been a resident of the area described in Appendix A for 12 months prior to the date of
884 such election.

885 (c) Only for the purposes of holding and conducting the referendum election provided for
886 in subsection (a) of this section and holding the special election of the City of Mulberry to
887 be held on the Tuesday after the first Monday in November, 2024, the election
888 superintendent of Gwinnett County is vested with the powers and duties of the election
889 superintendent of the City of Mulberry and the powers and duties of the governing
890 authority of the City of Mulberry.

891 SECTION 8.11.

892 Effective dates and transition.

893 (a) The provisions of this Act necessary for the referendum election provided for in
894 Section 8.10 of this charter shall become effective immediately upon this Act's approval
895 by the Governor or upon its becoming law without such approval.

896 (b) Those provisions of this Act necessary for the special election provided for in
897 Section 8.13 of this charter shall be effective upon the certification of the results of the
898 referendum election provided for by Section 8.10 of this charter if this Act is approved at
899 such referendum election.

900 (c) Except as provided in Section 8.10 of this charter, the remaining provisions of this Act
901 shall become of full force and effect for all purposes at 12:00 Midnight on January 1, 2025,
902 except that the initial councilmembers shall take office immediately following their
903 election and the certification thereof and by action of a quorum may prior to 12:00
904 Midnight on January 1, 2025, meet and take actions binding on the city.

905 (d) A period of time will be needed for an orderly transition of various government
906 functions from Gwinnett County to the City of Mulberry. Accordingly there shall be a
907 transition period beginning on the date the initial councilmembers take office under this

908 charter, and ending at 12:00 Midnight on December 31, 2026. During such transition
909 period, all provisions of this charter shall be effective as law, but not all provisions of this
910 charter shall be implemented.

911 (e) During such transition period, Gwinnett County shall continue to provide within the
912 territorial limits of the city all government services and functions which Gwinnett County
913 provided in that area during the years 2023 and 2024 and at the same actual cost, except
914 to the extent otherwise provided in this section and except that the governing authority of
915 Gwinnett County shall make no modifications to the zoning of any property located within
916 the city during such transition period; provided, however, that upon at least 60 days' prior
917 written notice to Gwinnett County by the City of Mulberry, responsibility for any such
918 service or function shall be transferred to the City of Mulberry. During the transition
919 period, the city shall remain within the Gwinnett County special services district, but shall
920 be removed from such district at the conclusion of such period. Beginning
921 December 1, 2025, the City of Mulberry shall collect taxes, fees, assessments, fines and
922 forfeitures, and other moneys within the territorial limits of the city in the same manner as
923 authorized immediately prior to the effective date of this section; provided, however, that
924 upon at least 60 days' prior written notice to Gwinnett County by the City of Mulberry, the
925 authority to collect any tax, fee, assessment, fine or forfeiture, or other moneys shall remain
926 with Gwinnett County after December 1, 2025, until such time as Gwinnett County
927 receives subsequent notice from the City of Mulberry that such authority shall be
928 transferred to the City of Mulberry.

929 (f) During the transition period, the governing authority of the City of Mulberry:

930 (1) Shall hold regular meetings and may hold special meetings as provided in this
931 charter;

932 (2) May enact ordinances and resolutions as provided in this charter;

933 (3) May amend this charter by home rule action as provided by general law;

934 (4) May accept gifts and grants;

- 935 (5) May borrow money and incur indebtedness to the extent authorized by this charter
936 and general law;
- 937 (6) Reserved;
- 938 (7) May establish a fiscal year and budget;
- 939 (8) May create, alter, or abolish departments, boards, offices, commissions, and agencies
940 of the city; appoint and remove officers and employees; and exercise all necessary or
941 appropriate personnel and management functions; and
- 942 (9) May generally exercise any power granted by this charter or general law, except to
943 the extent that a power is specifically and integrally related to the provision of a
944 governmental service, function, or responsibility not yet provided or carried out by the
945 city.
- 946 (g) Except as otherwise provided in this section, during the transition period, the
947 Municipal Court of the City of Mulberry shall not exercise its jurisdiction. During the
948 transition period, all ordinances of Gwinnett County shall remain applicable within the
949 territorial limits of the city and the appropriate court or courts of Gwinnett County shall
950 retain jurisdiction to enforce such ordinances. However, by mutual agreement and
951 concurrent resolutions and ordinances if needed Gwinnett County and the City of Mulberry
952 may during the transition period transfer all or part of such regulatory authority and the
953 appropriate court jurisdiction to the City of Mulberry. Any transfer of jurisdiction to the
954 City of Mulberry during or at the end of the transition period shall not in and of itself abate
955 any judicial proceeding pending in Gwinnett County or the pending prosecution of any
956 violation of any ordinance of Gwinnett County.
- 957 (h) During the transition period, the governing authority of the City of Mulberry may at
958 any time, without the necessity of any agreement by Gwinnett County, commence to
959 exercise its code enforcement and planning and zoning powers; provided, however, that the
960 city shall give the county notice of the date on which the city will assume the exercise of
961 such powers. Upon the governing authority of the City of Mulberry commencing to

962 exercise its code enforcement and planning and zoning powers, the Municipal Court of the
963 City of Mulberry shall immediately have jurisdiction to enforce the code enforcement and
964 planning and zoning ordinances of the city. The provisions of this subsection shall control
965 over any conflicting provisions of any other subsection of this section.

966 (i) Effective upon the termination of the transition period, subsections (b) through (h) of
967 this section shall cease to apply except for the last sentence of subsection (g) which shall
968 remain effective. Effective upon the termination of the transition period, the City of
969 Mulberry shall be a full functioning municipal corporation and subject to all general laws
970 of this state.

971

SECTION 8.12.

972

Directory nature of dates.

973 Unless otherwise provided for in this charter, it is the intention of the General Assembly that
974 this Act be construed as directory rather than mandatory with respect to any date prescribed
975 in this Act. If it is necessary to delay any action called for in this Act for providential cause
976 or any other reason, it is the intention of the General Assembly that the action be delayed
977 rather than abandoned. Any delay in performing any action under this Act, whether for cause
978 or otherwise, shall not operate to frustrate the overall intent of this Act. Without limiting the
979 generality of the foregoing it is specifically provided that:

980 (1) If it is not possible to hold the referendum election provided for in Section 8.10 of
981 this charter on the date specified in that section, then such referendum shall be held as
982 soon thereafter as is reasonably practicable; and

983 (2) If it is not possible to hold the first election provided for in Section 8.13 of this
984 charter on the date specified in that section, then there shall be a special election for the
985 initial members of the governing authority to be held as soon thereafter as is reasonably

986 practicable, and the commencement of the initial terms of office shall be delayed
987 accordingly.

988 SECTION 8.13.

989 Special election.

990 (a) The first election for councilmembers shall be a special election held on the Tuesday
991 after the first Monday in November, 2024. At such election, the first councilmembers shall
992 be elected to serve for the initial terms of office specified in subsection (b) of this section.
993 Thereafter, the time for holding regular municipal elections shall be on the Tuesday next
994 following the first Monday in November of each odd-numbered year beginning in 2025.
995 The successors to the first initial councilmembers and future successors shall take office
996 at the first organizational meeting in January immediately following their election and shall
997 serve for terms of four years and until their respective successors are elected and qualified.
998 (b) The initial councilmembers elected by a majority vote of the qualified electors of the
999 city from the five districts shall serve a term of office through December 31, 2027, and
1000 until their respective successors are elected and qualified. Thereafter, successors to such
1001 initial councilmembers shall serve four-year terms of office and until their respective
1002 successors are elected and qualified.

1003

ARTICLE IX.

1004

GENERAL REPEALER

1005

SECTION 9.10.

1006

General repealer.

1007 All laws and parts of laws in conflict with this Act are repealed.

1008

APPENDIX A

1009

LEGAL DESCRIPTION

1010

CITY OF MULBERRY, GEORGIA

1011 User: H104

1012 Plan Name: Mulberry-City-2024

1013 Plan Type: Local

1014 VTD DUNCANS A

1015 VTD DUNCANS B

1016 VTD DUNCANS C

1017 VTD DUNCANS D

1018 Block 050615

1019 1000 1012

1020 Block 050616

1021 1000 1001 1002 1003 1004 1006 1007 1008 1009 1010 2000 2001

1022 2002 2003 2004 2005

1023 Block 050617

1024 4001 4002 4003 4004 4005 4006 4007 4008 4009 4010 4012 4021

1025 4022 4023 5032

1026 VTD PUCKETTS C

1027 Block 050615

1028 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1018

1029 2000 2001 2002 2003

1030 Block 050635

1031 1003 1004 1005 1006 1007

1032 Block 050636

1033 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009

1034 VTD ROCKYCREEK A

1035 Block 050619

1036 1006 1009 1010 1013 1014 1015 1016 1017 1020 1021 1022 3000

1037 3001 3002 3003 3006 3007 3008 3010

1038 Block 050628

1039 1000 1001 2000 2001 2002 2003 2004 2005 2006 2007 2008 3000

1040 3001 3002

1041 APPENDIX B
1042 City Council Districts

1043 User: H104
1044 Plan Name: Mulberry-Dist-2024
1045 Plan Type: Local
1046 District 001
1047 County Gwinnett GA
1048 VTD DUNCANS D
1049 Block 050615
1050 1000 1012
1051 Block 050616
1052 1003 1004 1006 1007 1008 1009 1010
1053 VTD PUCKETTS C
1054 Block 050615
1055 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1018
1056 2000 2001 2002 2003
1057 Block 050635
1058 1003 1004 1005 1006 1007
1059 Block 050636
1060 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009

1061 District 002
1062 County Gwinnett GA
1063 VTD DUNCANS B
1064 Block 050617
1065 2000 2001 2002 2003 2004 2005 2006 3000 3001 3002 3007 4013

1066 4014 4015 4016 4018 4019 4020 4024 4025
1067 VTD DUNCANS D
1068 Block 050616
1069 1000 1001 1002 2000 2001 2002 2003 2004 2005
1070 Block 050617
1071 4001 4002 4003 4004 4005 4006 4007 4008 4009 4010 4012 4021
1072 4022 4023 5032

1073 District 003
1074 County Gwinnett GA
1075 VTD DUNCANS A
1076 VTD DUNCANS C
1077 Block 050620
1078 1000 1001 1002 1003 1004 1005 1006 1007

1079 District 004
1080 County Gwinnett GA
1081 VTD DUNCANS B
1082 Block 050618
1083 1000 1001 1002 1003 1004
1084 Block 050619
1085 1000 1001 1002 1003 1004 1005 1007 1008 1012 2000 2001 2002
1086 2003 2004
1087 VTD DUNCANS C
1088 Block 050618
1089 2000 2001 2002 3000 3001 3002 3003 3004
1090 Block 050619

1091 2005 2006 3004 3005

1092 VTD ROCKYCREEK A

1093 Block 050619

1094 1010 1013 1014 1015 1016 1017

1095 District 005

1096 County Gwinnett GA

1097 VTD ROCKYCREEK A

1098 Block 050619

1099 1006 1009 1020 1021 1022 3000 3001 3002 3003 3006 3007 3008

1100 3010

1101 Block 050628

1102 1000 1001 2000 2001 2002 2003 2004 2005 2006 2007 2008 3000

1103 3001 3002

1104

APPENDIX C

1105

CERTIFICATE AS TO MINIMUM STANDARDS

1106

FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1107 I, Clint Dixon, Georgia State Senator from the 45th District and the author of this bill
 1108 introduced at the 2024 regular session of the General Assembly of Georgia, which grants an
 1109 original municipal charter to the City of Mulberry, do hereby certify that this bill is in
 1110 compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.
 1111 in that the area embraced within the original incorporation in this bill is in all respects in
 1112 compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A.
 1113 This certificate is executed to conform to the requirements of Code Section 36-31-5 of the
 1114 O.C.G.A.

1115 So certified this _____ day of _____, 2023.

1116

1117

1118

Honorable Clint Dixon

1119

Senator, 45th District

1120

Georgia State Senate