

House Bill 869

By: Representatives Efstrotation of the 104th, McCollum of the 30th, and Mughal of the 105th

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

H. B. 869

- 1 -

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.

62 Powers and construction.

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

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

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

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

77 (d) The powers of this city shall be construed liberally in favor of the city. The specific
78 mention or failure to mention powers shall not be construed as limiting in any way the
79 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.

297 SECTION 2.21.

298 Ordinance form; procedures.

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

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

311 SECTION 2.22.

312 Action requiring an ordinance.

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

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

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

- 320 (2) Publish notice of such proposed action on any and all websites and social media
321 accounts maintained by the city; and
322 (3) Conduct two public hearings on the proposed actions.

323 SECTION 2.23.

324 Emergencies.

- 325 (a) To meet a public emergency affecting life, health, property, or public peace, the city
326 council may convene on call of the mayor or three councilmembers and may promptly
327 adopt an emergency ordinance, but such ordinance may not levy taxes; regulate the rate
328 charged by any public utility for its services; or authorize the borrowing of money except
329 for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the
330 form prescribed for ordinances generally, except that it shall be plainly designated as an
331 emergency ordinance and shall contain, after the enacting clause, a declaration stating that
332 an emergency exists and describing the emergency in clear and specific terms. An
333 emergency ordinance may be adopted, with or without amendment, or rejected at the
334 meeting at which it is introduced, but the affirmative vote of at least three councilmembers
335 shall be required for adoption. It shall become effective upon adoption or at such later time
336 as it may specify. Every emergency ordinance shall automatically stand repealed 30 days
337 following the date upon which it was adopted, but this shall not prevent reenactment of the
338 ordinance in the manner specified in this section if the emergency still exists. An
339 emergency ordinance may also be repealed by adoption of a repealing ordinance in the
340 same manner specified in this section for adoption of emergency ordinances.
- 341 (b) Such meetings shall be open to the public to the extent required by law and notice to
342 the public of emergency meetings shall be made as fully as is reasonably possible in
343 accordance with Code Section 50-14-1 of the O.C.G.A. or such other applicable laws as
344 are or may hereafter be enacted.

345 SECTION 2.24.
346 Codes of technical regulations.

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

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

357 SECTION 2.25.
358 Signing; authenticating;
359 recording; codification; printing.

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

362 (b) The city council shall provide for the preparation of a general codification of all the
363 ordinances of the city having the force and effect of law. The general codification shall be
364 adopted by the city council by ordinance and shall be published promptly, together with
365 all amendments thereto and such codes of technical regulations and other rules and
366 regulations as the city council may specify. This compilation shall be known and cited
367 officially as "The Code of the City of Mulberry, Georgia." Copies of the code shall be

368 furnished to all officers, departments, and agencies of the city and made available for
369 purchase by the public at a reasonable price as fixed by the city council.

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

379 SECTION 2.26.

380 City manager; appointment; qualifications; compensation.

381 Reserved.

382 SECTION 2.27.

383 Removal of city manager.

384 Reserved.

385 SECTION 2.28.

386 Acting city manager.

387 Reserved.

388

SECTION 2.29.

389

Powers and duties of the city manager.

390 Reserved.

391

SECTION 2.30.

392

Council interference with administration.

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

398

SECTION 2.31.

399

Appointment of mayor; forfeiture.

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

404 SECTION 2.32.

405 Mayor pro tem.

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

415 SECTION 2.33.

416 Powers and duties of mayor.

417 The mayor shall:

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

428

ARTICLE III.

429

ADMINISTRATIVE AFFAIRS

430

SECTION 3.10.

431

Administrative and service departments.

432 (a) Except as otherwise provided in this charter, the city council by ordinance shall

433 prescribe the functions or duties and establish, abolish, alter, consolidate, or leave vacant

434 all nonelective offices, positions of employment, departments, and agencies of the city as

435 necessary for the proper administration of the affairs and government of this city.

436 (b) Except as otherwise provided by this charter or by law, the directors of departments

437 and other appointed officers of the city shall be appointed solely on the basis of their

438 respective administrative and professional qualifications.

439 (c) All appointed officers and directors of departments shall receive such compensation

440 as prescribed by ordinance.

441 (d) There shall be a director of each department or agency who shall be its principal

442 officer. Each director shall, subject to the direction and supervision of the city council, be

443 responsible for the administration and direction of the affairs and operations of that

444 director's department or agency.

445 (e) All appointed officers and directors shall be employees at will and subject to removal

446 or suspension at any time by the city council otherwise provided by law or ordinance

SECTION 3.11.

447
448

Boards, commissions, and authorities.

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

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

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

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

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

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

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

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

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

478 SECTION 3.12.

479 City attorney.

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

488 SECTION 3.13.

489 City clerk.

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

494 SECTION 3.14.

495 Position classification and pay plans.

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

502 SECTION 3.15.

503 Personnel policies.

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

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

510 ARTICLE IV.

511 JUDICIAL BRANCH

512 SECTION 4.10.

513 Creation; name.

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

515 SECTION 4.11.

516 Chief judge; associate judge.

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

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

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

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

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

530 SECTION 4.12.

531 Convening.

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

533 SECTION 4.13.

534 Jurisdiction; powers.

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

- 536 (b) The municipal court shall have authority to punish those in its presence for contempt,
537 provided that such punishment shall not exceed \$200.00 or ten days in jail.
- 538 (c) The municipal court may fix punishment for offenses within its jurisdiction not
539 exceeding a fine of \$1,000.00 or imprisonment for 180 days or both such fine and
540 imprisonment or may fix punishment by fine, imprisonment, or alternative sentencing, as
541 now or hereafter provided by law.
- 542 (d) The municipal court shall have authority to establish a schedule of fees to defray the
543 cost of operation and shall be entitled to reimbursement of the cost of meals, transportation,
544 and caretaking of prisoners bound over to superior courts for violations of state law.
- 545 (e) The municipal court shall have authority to establish bail and recognizances to ensure
546 the presence of those charged with violations before such court and shall have discretionary
547 authority to accept cash or personal or real property as surety for the appearance of persons
548 charged with violations. Whenever any person shall give bail for that person's appearance
549 and shall fail to appear at the time fixed for trial, that person's bond shall be forfeited by
550 the judge presiding at such time and an execution issued thereon by serving the defendant
551 and the defendant's sureties with a rule nisi at least two days before a hearing on the rule
552 nisi. In the event that cash or property is accepted in lieu of bond for security for the
553 appearance of a defendant at trial, and if such defendant fails to appear at the time and
554 place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited
555 to the city, or the property so deposited shall have a lien against it for the value forfeited
556 which lien shall be enforceable in the same manner and to the same extent as a lien for city
557 property taxes.
- 558 (f) The municipal court shall have the same authority as superior courts to compel the
559 production of evidence in the possession of any party; to enforce obedience to its orders,
560 judgments, and sentences; and to administer such oaths as are necessary.

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

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

568 SECTION 4.14.

569 Certiorari.

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

574 SECTION 4.15.

575 Rules for court.

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

583 ARTICLE V.
584 ELECTIONS AND REMOVAL

585 SECTION 5.10.
586 Applicability of general law.

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

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

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

595 SECTION 5.12.
596 Nonpartisan elections.

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

599 SECTION 5.13.
600 Election by majority.

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

602 SECTION 5.14.

603 Special elections; vacancies.

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

612 SECTION 5.15.

613 Other provisions.

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

617 SECTION 5.16.

618 Removal of officers.

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

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

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

635 ARTICLE VI.

636 FINANCE

637 SECTION 6.10.

638 Property tax.

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

641 SECTION 6.11.

642 Millage rate and due dates.

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

644

SECTION 6.12.

645

Occupation and business taxes.

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

650

SECTION 6.13.

651

Licenses; permits; fees.

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

657

SECTION 6.14.

658

Franchises.

659 Reserved.

660

SECTION 6.15.

661

Service charges.

662 Reserved.

663 SECTION 6.16.

664 Special assessments.

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

669 SECTION 6.17.

670 Construction; other taxes.

671 Reserved.

672 SECTION 6.18.

673 Collection of delinquent taxes and fees.

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

681 SECTION 6.19.

682 General obligation bonds.

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

687 SECTION 6.20.

688 Revenue bonds.

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

692 SECTION 6.21.

693 Short-term loans.

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

696 SECTION 6.22.

697 Lease-purchase contracts.

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

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

705 SECTION 6.23.

706 Fiscal year.

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

710 SECTION 6.24.

711 Budget ordinance.

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

717 SECTION 6.25.

718 Operating budget.

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

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

728 SECTION 6.26.

729 Action by city council on budget.

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

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

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

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

749 SECTION 6.27.

750 Levy of taxes.

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

757 SECTION 6.28.

758 Changes in appropriations.

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

763 SECTION 6.29.

764 Capital improvements.

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

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

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

780 SECTION 6.30.

781 Audits.

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

787 SECTION 6.31.

788 Procurement and property management.

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

790 (1) It is in writing;

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

795 SECTION 6.32.

796 Purchasing.

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

799 SECTION 6.33.

800 Sale and lease of property.

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

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

819 SECTION 6.34.

820 Apportionment of revenue.

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

826 ARTICLE VII.

827 GENERAL PROVISIONS

828 SECTION 7.10.

829 Bonds for officials.

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

833 SECTION 7.11.

834 Construction and definitions.

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

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

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

840 ARTICLE VIII.

841 REFERENDUM AND INITIAL ELECTIONS

842 SECTION 8.10.

843 Referendum and initial election.

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

852 "() YES Shall the Act incorporating the City of Mulberry in Gwinnett County
853 () NO according to the charter contained in the Act be approved?"

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

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

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

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

880 (c) Only for the purposes of holding and conducting the referendum election provided for
881 in subsection (a) of this section and holding the special election of the City of Mulberry to
882 be held on the Tuesday after the first Monday in November, 2024, the election

883 superintendent of Gwinnett County is vested with the powers and duties of the election
884 superintendent of the City of Mulberry and the powers and duties of the governing
885 authority of the City of Mulberry.

886 SECTION 8.11.

887 Effective dates and transition.

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

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

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

900 (d) A period of time will be needed for an orderly transition of various government
901 functions from Gwinnett County to the City of Mulberry. Accordingly there shall be a
902 transition period beginning on the date the initial councilmembers take office under this
903 charter, and ending at 12:00 Midnight on December 31, 2026. During such transition
904 period, all provisions of this charter shall be effective as law, but not all provisions of this
905 charter shall be implemented.

906 (e) During such transition period, Gwinnett County shall continue to provide within the
907 territorial limits of the city all government services and functions which Gwinnett County

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

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

- 925 (1) Shall hold regular meetings and may hold special meetings as provided in this
926 charter;
- 927 (2) May enact ordinances and resolutions as provided in this charter;
- 928 (3) May amend this charter by home rule action as provided by general law;
- 929 (4) May accept gifts and grants;
- 930 (5) May borrow money and incur indebtedness to the extent authorized by this charter
931 and general law;
- 932 (6) Reserved;
- 933 (7) May establish a fiscal year and budget;

934 (8) May create, alter, or abolish departments, boards, offices, commissions, and agencies
935 of the city; appoint and remove officers and employees; and exercise all necessary or
936 appropriate personnel and management functions; and

937 (9) May generally exercise any power granted by this charter or general law, except to
938 the extent that a power is specifically and integrally related to the provision of a
939 governmental service, function, or responsibility not yet provided or carried out by the
940 city.

941 (g) Except as otherwise provided in this section, during the transition period, the
942 Municipal Court of the City of Mulberry shall not exercise its jurisdiction. During the
943 transition period, all ordinances of Gwinnett County shall remain applicable within the
944 territorial limits of the city and the appropriate court or courts of Gwinnett County shall
945 retain jurisdiction to enforce such ordinances. However, by mutual agreement and
946 concurrent resolutions and ordinances if needed Gwinnett County and the City of Mulberry
947 may during the transition period transfer all or part of such regulatory authority and the
948 appropriate court jurisdiction to the City of Mulberry. Any transfer of jurisdiction to the
949 City of Mulberry during or at the end of the transition period shall not in and of itself abate
950 any judicial proceeding pending in Gwinnett County or the pending prosecution of any
951 violation of any ordinance of Gwinnett County.

952 (h) During the transition period, the governing authority of the City of Mulberry may at
953 any time, without the necessity of any agreement by Gwinnett County, commence to
954 exercise its code enforcement and planning and zoning powers; provided, however, that the
955 city shall give the county notice of the date on which the city will assume the exercise of
956 such powers. Upon the governing authority of the City of Mulberry commencing to
957 exercise its code enforcement and planning and zoning powers, the Municipal Court of the
958 City of Mulberry shall immediately have jurisdiction to enforce the code enforcement and
959 planning and zoning ordinances of the city. The provisions of this subsection shall control
960 over any conflicting provisions of any other subsection of this section.

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

966 SECTION 8.12.

967 Directory nature of dates.

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

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

978 (2) If it is not possible to hold the first election provided for in Section 8.13 of this
979 charter on the date specified in that section, then there shall be a special election for the
980 initial members of the governing authority to be held as soon thereafter as is reasonably
981 practicable, and the commencement of the initial terms of office shall be delayed
982 accordingly.

983 SECTION 8.13.
984 Special election.

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

998 ARTICLE IX.
999 GENERAL REPEALER

1000 SECTION 9.10.
1001 General repealer.

1002 All laws and parts of laws in conflict with this Act are repealed.

1003

APPENDIX A

1004

LEGAL DESCRIPTION

1005

CITY OF MULBERRY, GEORGIA

1006 User: H104

1007 Plan Name: Mulberry-City-2024

1008 Plan Type: Local

1009 VTD DUNCANS A

1010 VTD DUNCANS B

1011 VTD DUNCANS C

1012 VTD DUNCANS D

1013 Block 050615

1014 1000 1012

1015 Block 050616

1016 1000 1001 1002 1003 1004 1006 1007 1008 1009 1010 2000 2001

1017 2002 2003 2004 2005

1018 Block 050617

1019 4001 4002 4003 4004 4005 4006 4007 4008 4009 4010 4012 4021

1020 4022 4023 5032

1021 VTD PUCKETTS C

1022 Block 050615

1023 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1018

1024 2000 2001 2002 2003

1025 Block 050635

1026 1003 1004 1005 1006 1007

1027 Block 050636
1028 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009
1029 VTD ROCKYCREEK A
1030 Block 050619
1031 1006 1009 1010 1013 1014 1015 1016 1017 1020 1021 1022 3000
1032 3001 3002 3003 3006 3007 3008 3010
1033 Block 050628
1034 1000 1001 2000 2001 2002 2003 2004 2005 2006 2007 2008 3000
1035 3001 3002

1036 APPENDIX B
1037 City Council Districts

1038 User: H104
1039 Plan Name: Mulberry-Dist-2024
1040 Plan Type: Local
1041 District 001
1042 County Gwinnett GA
1043 VTD DUNCANS D
1044 Block 050615
1045 1000 1012
1046 Block 050616
1047 1003 1004 1006 1007 1008 1009 1010
1048 VTD PUCKETTS C
1049 Block 050615
1050 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1018
1051 2000 2001 2002 2003
1052 Block 050635
1053 1003 1004 1005 1006 1007
1054 Block 050636
1055 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009

1056 District 002
1057 County Gwinnett GA
1058 VTD DUNCANS B
1059 Block 050617
1060 2000 2001 2002 2003 2004 2005 2006 3000 3001 3002 3007 4013

1061 4014 4015 4016 4018 4019 4020 4024 4025
1062 VTD DUNCANS D
1063 Block 050616
1064 1000 1001 1002 2000 2001 2002 2003 2004 2005
1065 Block 050617
1066 4001 4002 4003 4004 4005 4006 4007 4008 4009 4010 4012 4021
1067 4022 4023 5032

1068 District 003
1069 County Gwinnett GA
1070 VTD DUNCANS A
1071 VTD DUNCANS C
1072 Block 050620
1073 1000 1001 1002 1003 1004 1005 1006 1007

1074 District 004
1075 County Gwinnett GA
1076 VTD DUNCANS B
1077 Block 050618
1078 1000 1001 1002 1003 1004
1079 Block 050619
1080 1000 1001 1002 1003 1004 1005 1007 1008 1012 2000 2001 2002
1081 2003 2004
1082 VTD DUNCANS C
1083 Block 050618
1084 2000 2001 2002 3000 3001 3002 3003 3004
1085 Block 050619

1086 2005 2006 3004 3005
1087 VTD ROCKYCREEK A
1088 Block 050619
1089 1010 1013 1014 1015 1016 1017

1090 District 005
1091 County Gwinnett GA
1092 VTD ROCKYCREEK A
1093 Block 050619
1094 1006 1009 1020 1021 1022 3000 3001 3002 3003 3006 3007 3008
1095 3010
1096 Block 050628
1097 1000 1001 2000 2001 2002 2003 2004 2005 2006 2007 2008 3000
1098 3001 3002

1099

APPENDIX C

1100

CERTIFICATE AS TO MINIMUM STANDARDS

1101

FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

1102 I, Chuck Efstration, Georgia State Representative from the 104th District and the author of
 1103 this bill introduced at the 2024 regular session of the General Assembly of Georgia, which
 1104 grants an original municipal charter to the City of Mulberry, do hereby certify that this bill
 1105 is in compliance with the minimum standards required by Chapter 31 of Title 36 of the
 1106 O.C.G.A. in that the area embraced within the original incorporation in this bill is in all
 1107 respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the
 1108 O.C.G.A. This certificate is executed to conform to the requirements of Code
 1109 Section 36-31-5 of the O.C.G.A.

1110 So certified this _____ day of _____, 2024.

1111

1112

1113

Honorable Chuck Efstration

1114

Representative, 104th District

1115

Georgia House of Representatives