

House Bill 157

By: Representatives Erwin of the 28<sup>th</sup> and Anderson of the 10<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To provide a new charter for the Town of Mount Airy; to provide for incorporation,  
2 boundaries, and powers of the town; to provide for the exercise of powers and limitations on  
3 powers; to provide for a governing authority of such town and the powers, duties, authority,  
4 prohibitions, election, terms, removal from office, method of filling vacancies, compensation,  
5 expenses, and qualifications; to provide for conflict of interest and holding other offices; to  
6 provide for inquiries and investigations; to provide for organization and meeting procedures;  
7 to provide for ordinances; to provide for eminent domain; to provide for codes; to provide  
8 for the office of mayor and certain duties and powers relative to the office of mayor; to  
9 provide for a veto; to provide for a mayor pro tempore; to provide for a town manager; to  
10 provide for administrative responsibilities; to provide for boards, commissions, and  
11 authorities; to provide for a town attorney, town clerk, and other personnel; to provide for  
12 a comprehensive land use plan; to provide for the establishment of a municipal court and the  
13 judge or judges thereof; to provide for practices and procedures; to provide for taxation,  
14 permits, and fees; to provide for franchises, service charges, and assessments; to provide for  
15 bonded and other indebtedness; to provide for accounting and budgeting; to provide for  
16 contracting and purchasing; to provide for sale of town property; to provide for bonds for  
17 officials; to provide for pending matters; to provide for definitions and construction; to

H. B. 157

- 1 -

18 provide for severability; to provide for related matters; to repeal a specific Act; to repeal  
19 conflicting laws; and for other purposes.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

21 **ARTICLE I.**  
22 **INCORPORATION AND POWERS**

23 **SECTION 1.10.**  
24 **Incorporation.**

25 The Town of Mount Airy in Habersham County is reincorporated by the enactment of this  
26 charter and is constituted and declared a body politic and corporate under the name of the  
27 Town of Mount Airy. References in this charter to "the town" or "this town" refer to the  
28 Town of Mount Airy. The town shall have perpetual existence. The legal situs of the town  
29 shall be Habersham County.

30 **SECTION 1.11.**  
31 **Corporate boundaries.**

32 (a) The boundaries of the town shall be those existing on the effective date of the adoption  
33 of this charter with such alterations as may be made from time to time in the manner  
34 provided by law. Such boundaries shall specifically include, but not be limited to, the  
35 territory outlined in an Act approved February 9, 2005 (Ga. L. 2005, p. 3506). The  
36 boundaries of the town at all times shall be shown on a map, a written description, or any  
37 combination thereof, to be retained permanently in the office of the town clerk and to be  
38 designated, as the case may be: "Official Map or Description of the Corporate Limits of the

39 Town of Mount Airy, Georgia." Photographic, typed, or other copies of such map or  
40 description certified by the town clerk shall be admitted as evidence in all courts and shall  
41 have the same force and effect as the original map or description.

42 (b) The town council may provide for the redrawing of any such map by ordinance to reflect  
43 lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes  
44 the earlier map or maps which it is designated to replace but such earlier maps shall be  
45 retained in the office of the town clerk.

#### 46 **SECTION 1.12.**

#### 47 Powers and construction.

48 (a) The town shall have all powers possible for a municipality to have under the present or  
49 future Constitution and laws of this state as fully and completely as though they were  
50 specifically enumerated in this charter. The town shall have all the power of self-government  
51 not otherwise prohibited by this charter or general state law.

52 (b) The powers of the town shall be construed liberally in favor of the town. The specific  
53 mention or failure to mention particular powers shall not be construed as limiting in any way  
54 the powers of this town.

#### 55 **SECTION 1.13.**

#### 56 Examples of powers.

57 (a) The powers of the town shall include, but not be limited to, the following powers:

58 (1) Air and Water Pollution. To regulate the emission of smoke or other exhaust which  
59 pollutes the air and to prevent the pollution of natural streams which flow within the  
60 corporate limits of the town;

- 61 (2) Animal Regulations. To regulate and license or to prohibit the keeping or running  
62 at-large of animals and fowl, and to provide for the impoundment of same if in violation  
63 of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane  
64 destruction of animals and fowl when not redeemed as provided by ordinance; and to  
65 provide punishment for violation of ordinances enacted hereunder;
- 66 (3) Appropriations and Expenditures. To make appropriations for the support of the  
67 government of the town; to authorize the expenditure of money for any purposes  
68 authorized by this charter and for any purpose for which a municipality is authorized by  
69 the laws of the State of Georgia; and to provide for the payment of expenses of the town;
- 70 (4) Building Regulation. To regulate and to license the erection and construction of  
71 buildings and all other structures; to adopt building, housing, plumbing, fire safety,  
72 electrical, gas, and heating and air conditioning codes and other similar technical codes;  
73 and to regulate all housing, and building trades;
- 74 (5) Business Regulation and Taxation. To levy and to provide for the collection of  
75 regulatory fees and taxes on privileges, occupations, trades, and professions as authorized  
76 by Title 48 of the O.C.G.A.; or other such applicable laws as are or may thereafter be  
77 enacted; to permit and regulate the same; to provide for the manner and method of  
78 payment of such regulatory fees and taxes; and to revoke such permits after due process  
79 for failure to pay any town taxes or fees;
- 80 (6) Condemnation. To condemn property, inside or outside the corporate limits of the  
81 town, for present or future use and for any corporate purpose deemed necessary by the  
82 governing authority, utilizing procedures enumerated in Title 22 of the O.C.G.A., or such  
83 other applicable laws as are or may hereafter be enacted;
- 84 (7) Contracts. To enter into contracts and agreements with other governmental entities  
85 and with private persons, firms, and corporations;
- 86 (8) Emergencies. To establish procedures for determining and proclaiming that an  
87 emergency situation exists within or without the town, and to make and carry out all

88 reasonable provisions deemed necessary to deal with or meet such an emergency for the  
89 protection, safety, health, or well-being of the citizens of the town;

90 (9) Environmental Protection. To protect and preserve the natural resources,  
91 environment, and vital areas of the town, the region, and the state through the  
92 preservation and improvement of air quality, the restoration and maintenance of water  
93 resources, the control of erosion and sedimentation, the management of storm water and  
94 establishment of a storm water utility, the management of solid and hazardous waste, the  
95 management of commercial waste, and other necessary actions for the protection of the  
96 environment;

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

101 (11) Garbage Fees. To levy, fix, assess, and collect a garbage, refuse, and trash  
102 collection and disposal, and other sanitary service charge, tax, or fee for such services as  
103 may be necessary in the operation of the town from all individuals, firms, and  
104 corporations residing in or doing business therein and benefiting from such services; to  
105 enforce the payment of such charges, taxes, or fees; and to provide for the manner and  
106 method of collecting such service charges to provide that said fees may be based upon  
107 the availability of the service as opposed to user fees;

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

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

- 115 (14) Health and Sanitation. To prescribe standards of health and sanitation and to  
116 provide for the enforcement of such standards;
- 117 (15) Jail Sentences. To provide that persons given jail sentences in the municipal court  
118 may work out such sentences in any public works or on the streets, roads, drains, and  
119 other public property in the town, to provide for commitment of such persons to any jail,  
120 to provide for the use of pretrial diversion and any alternative sentencing allowed by law,  
121 or to provide for commitment of such persons to any county work camp or county jail by  
122 agreement with the appropriate county officials;
- 123 (16) Motor Vehicles. To regulate the operation of motor vehicles and exercise control  
124 over all traffic, including parking upon or across the streets, roads, alleys, and walkways  
125 of the town;
- 126 (17) Municipal Agencies and Delegation of Power. To create, alter, or abolish  
127 departments, boards, offices, commissions, and agencies of the town, including but not  
128 limited to any housing authority, and to confer upon such agencies the necessary and  
129 appropriate authority for carrying out all the powers conferred upon or delegated to the  
130 same;
- 131 (18) Municipal Debts. To appropriate and borrow money for the payment of debts to the  
132 town and to issue bonds for the purpose of raising revenue to carry out any project,  
133 program, or venture authorized by this charter or the laws of the State of Georgia, or the  
134 laws of the United States of America;
- 135 (19) Municipal Property Ownership. To acquire, dispose of, lease, and hold in trust or  
136 otherwise, any real, personal, or mixed property, in fee simple or lesser interest, inside  
137 or outside the municipal limits of the town;
- 138 (20) Municipal Property Protection. To provide for the preservation and protection of  
139 property and equipment of the town, and the administration and use of same by the  
140 public; and to prescribe penalties and punishment for violations thereof;

141 (21) Municipal Utilities. To acquire, lease, construct, operate, maintain, sell, and dispose  
142 of public utilities, including but not limited to a system of waterworks, sewers and drains,  
143 sewage disposal, storm water management, gas works, electric light plants, cable  
144 television and other telecommunications, transportation facilities, public airports, and any  
145 other public utility; and to fix the taxes, charges, rates, fares, fees, assessments,  
146 regulations, and penalties, and to provide for the withdrawal of service for refusal or  
147 failure to pay the same;

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

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

152 (24) Planning and Zoning. To provide comprehensive town planning for development  
153 by zoning; and to provide subdivision regulation and the like as the town council deems  
154 necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;

155 (25) Police and Fire Protection. To exercise the power of arrest through duly appointed  
156 police officers, and to establish, operate, or contract for a police and a firefighting  
157 agency;

158 (26) Public Hazards: Removal. To provide for the destruction and removal of any  
159 building or other structure which is or may become dangerous or detrimental to the  
160 public;

161 (27) Public Improvements. To provide for the acquisition, construction, building,  
162 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,  
163 cemeteries, markets and market houses, public buildings, libraries, public housing,  
164 airports, hospitals, terminals, docks, parking facilities or charitable, cultural, educational,  
165 recreational, conservation, sport, curative, corrective, detentional, penal, and medical  
166 institutions, agencies, and facilities; and to provide any other public improvements, inside  
167 or outside the corporate limits of the town; to regulate the use of public improvements;

168 and for such purposes, property may be acquired by condemnation under Title 22 of the  
169 O.C.G.A., or such other applicable laws as are or may hereafter be enacted;

170 (28) Public Peace. To provide for the prevention and punishment of loitering, disorderly  
171 conduct, drunkenness, riots, and public disturbances;

172 (29) Public Transportation. To organize and operate such public transportation systems  
173 as are deemed beneficial;

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

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

184 (32) Retirement. To have the option to provide and maintain a retirement plan and other  
185 employee benefit plans and programs for elected officials, officers, and employees of the  
186 town;

187 (33) Roadways. To lay out, open, extend, widen, establish or change the grade of,  
188 abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise  
189 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and  
190 walkways within the corporate limits of the town; and to grant franchises and  
191 rights-of-way throughout the streets and roads, and over the bridges and viaducts for the  
192 use of public utilities; and to require real estate owners to repair and maintain in a safe  
193 condition the sidewalks adjoining their lots or lands, and to impose penalties for failure  
194 to do so. All roads existing within municipal boundaries prior to the passage of this



195 charter shall be a minimum of 30 feet in width, unless otherwise specifically stated. All  
196 roads constructed within municipal boundaries subsequent to the passage of this charter  
197 shall be a minimum of 40 feet in width, unless otherwise specifically stated.

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

205 (35) Solid Waste Disposal. To provide for the collection and disposal of garbage,  
206 rubbish, and refuse, and to regulate the collection and disposal of garbage, rubbish, and  
207 refuse by others; and to have the option to provide for the separate collection of glass, tin,  
208 aluminum, cardboard, paper, and other recyclable materials, and to provide for the sale  
209 of such items;

210 (36) Special Areas of Public Regulation. To regulate or prohibit junk dealers and the  
211 manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and  
212 use of combustible, explosive, and inflammable materials, the use of lighting and heating  
213 equipment; to regulate the treatment of commercial waste or septage, or both, and any  
214 other business or situation which may be dangerous to persons or property; to regulate  
215 and control the conduct of peddlers and itinerant traders, theatrical performances,  
216 exhibitions, and shows of any kind, by taxation or otherwise; to license and tax  
217 professional fortunetelling, palmistry, and massage parlors; and to restrict adult  
218 bookstores and other adult entertainment to certain areas;

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

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

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

225 (40) Taxicabs, Ride Share Network Services, Transportation Referral Services, and  
226 Transportation Referral Service Providers. To the extent permitted by general law, to  
227 regulate and license vehicles operated for hire in the town; to limit the number of such  
228 vehicles; to require the operators thereof to be licensed; to require public liability  
229 insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate  
230 the parking of such vehicles; and to regulate and license ride share network services,  
231 transportation referral services, and transportation referral service providers to the extent  
232 allowed by general law; and

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

234 (b) The town shall also have the power to exercise and enjoy all other powers, functions,  
235 rights, privileges, and immunities necessary or desirable to promote or protect the safety,  
236 health, peace, security, good order, comfort, convenience, or general welfare of the town and  
237 its inhabitants; and to exercise all implied powers necessary or desirable to carry into  
238 execution all powers granted in this charter as fully and completely as if such powers were  
239 fully stated herein; and to exercise all powers now or in the future authorized to be exercised  
240 by other municipal governments under other laws of the State of Georgia; and no listing of  
241 particular powers in this charter shall be held to be exclusive of others, nor restrictive of  
242 general words and phrases granting powers, but shall be in addition to such powers unless  
243 expressly prohibited to municipalities under the Constitution or applicable laws of the State  
244 of Georgia.

245 **SECTION 1.14.**

246 Exercise of powers.

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

251 **ARTICLE II**

252 **GOVERNMENT STRUCTURE, ELECTIONS, AND REMOVAL**

253 **SECTION 2.10.**

254 Town council creation; composition; number; election.

255 (a) The governing authority of the town, except as otherwise specifically provided in this  
256 charter, shall be vested in a town council to be composed of a mayor and five  
257 councilmembers.

258 (b) The mayor and councilmembers shall serve for terms of four years and until their  
259 respective successors are elected and qualified. No person shall be eligible to serve as mayor  
260 or councilmember unless he or she shall have been a resident of this town for 12 months  
261 immediately preceding the election of mayor or councilmembers; each such person shall  
262 continue to reside within the town during said period of service and shall be registered and  
263 qualified to vote in municipal elections of this town.

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**SECTION 2.11.**

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## Elections.

266 (a) At any election, all persons who are qualified under the Constitution and laws of Georgia  
267 to vote for members of the General Assembly of Georgia and who are bona fide residents of  
268 the town shall be eligible to qualify as voters in the election.

269 (b) All elections shall be held and conducted in accordance with Chapter 2 of Title 21 of the  
270 O.C.G.A., the "Georgia Election Code." Except as otherwise provided by this charter, the  
271 town council shall, by ordinance, prescribe such rules and regulations it deems appropriate  
272 to fulfill any options and duties under the "Georgia Election Code." The town may choose  
273 to contract with the Habersham County Board of Elections to coordinate, organize, advertise,  
274 conduct, and operate any election for the Town of Mount Airy.

275 (c) The mayor and councilmembers who are in office on the effective date of this Act shall  
276 serve out the terms of office to which they were elected and until their successors are elected  
277 and qualified.

278 (d) The mayor and five councilmembers shall be elected at large by the voters of the town.

279 (e)(1) On the Tuesday next following the first Monday in November 2021, and on such  
280 day quadrennially thereafter, there shall be elected a mayor and two councilmembers.

281 (2) On the Tuesday next following the first Monday in November 2023 and on such day  
282 quadrennially thereafter, there shall be elected three councilmembers.

283 (3) The terms of office of the mayor and councilmembers elected pursuant to this section  
284 shall begin at the time of taking the oath of office as provided in Section 2.21.

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**SECTION 2.12.**

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## Vacancies in office.

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(a)(1) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, or removal from office in any manner authorized by this charter or the general laws of the State of Georgia.

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(2) Upon the suspension from office of mayor or councilmember in any manner authorized by the general laws of the State of Georgia, the town council or those remaining shall appoint a successor for the duration of the suspension. If the suspension becomes permanent, then the office shall become vacant and shall be filled as provided in subsection (b) of this section.

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(b) In the event that the office of mayor or councilmember shall become vacant, the town council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, that if such vacancy occurs within 12 months of the expiration of the term of that office, the town council or those members remaining shall appoint a successor for the remainder of the term. In all other respects, the special election shall be held and conducted in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or hereafter amended.

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**SECTION 2.13.**

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## Nonpartisan elections.

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

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306 **SECTION 2.14.**

307 Election by plurality.

308 (a) The candidate receiving a plurality of the votes cast for any town office shall be elected.

309 (b) Any runoff elections required by law shall be held and conducted in accordance with the  
310 provisions of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," as now or  
311 hereafter amended.

312 **SECTION 2.15.**

313 Compensation and expenses.

314 Compensation of the mayor and town council shall be as provided by ordinance. Any such  
315 ordinance may provide for compensation for attending meetings or the carrying out duties  
316 in an official capacity representing the town, either as a single designated representative or  
317 as a group of two or more councilmembers, for the town at multi-agency, town, county,  
318 state, or regional meetings and training. Such ordinance may also provide for reimbursement  
319 of expenses actual and necessary incurred. The town council shall be authorized to change  
320 their compensation and expenses for their services as provided by ordinance and in  
321 accordance with Chapter 35 of Title 36 of the O.C.G.A.

322 **SECTION 2.16.**

323 Prohibitions.

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

326 (1) Engage in any business or transaction or have a financial or other personal interest,  
327 direct or indirect, which is incompatible with the proper discharge of his or her official

328 duties or which would tend to impair the independence of his or her judgment or action  
329 in the performance of his or her official duties;

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

334 (3) Disclose confidential information, including information obtained at closed meetings  
335 pursuant to Chapter 14 of Title 50 of the O.C.G.A., concerning the property, government,  
336 or affairs of the governmental body by which he or she is engaged without proper legal  
337 authorization or use such information to advance the financial or other private interest of  
338 himself or herself or others;

339 (4) Accept any valuable gift, whether in the form of service, loan, object, or promise,  
340 from any person, firm, or corporation which to his or her knowledge is interested, directly  
341 or indirectly, in any manner whatsoever in business dealings with the governmental body  
342 by which he or she is engaged; provided, however, that an elected official who is a  
343 candidate for public office may accept campaign contributions and services in connection  
344 with any such campaign;

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

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

349 (b) Any elected official, appointed officer, or employee who has any private financial  
350 interest, directly or indirectly, in any contract or matter pending before or within any  
351 department of the town shall disclose such private interest to the town council. The mayor  
352 or any councilmember who has a private interest in any matter pending before the town  
353 council shall disclose such private interest and such disclosure shall be entered on the records  
354 of the town council, and he or she shall disqualify himself or herself from participating in any

355 decision or vote relating thereto. Any elected official, appointed officer, or employee of any  
356 agency or political entity in which this charter applies who shall have any private financial  
357 interest, directly or indirectly, in any contract or matter pending before or within such entity  
358 shall disclose such private interest to the governing body of such agency or entity.

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

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

366 (e) Except as authorized by law, no member of the town council shall hold any other elective  
367 town office or other town employment during the term for which he or she was elected. The  
368 provisions of this subsection shall not apply to any person holding employment on the  
369 effective date of this Act.

## 370 **SECTION 2.17.**

### 371 **Removal of officers.**

372 (a) The mayor, a councilmember, or other appointed officers provided for in this charter  
373 shall be removed from office for any one or more of the following causes:

- 374 (1) Incompetence, misfeasance, or malfeasance in office;  
375 (2) Conviction of a crime that is a felony or a crime involving moral turpitude;  
376 (3) Failure at any time to possess any qualifications of office as provided by this charter  
377 or by law;  
378 (4) Knowingly violating Section 2.16 or any other express prohibition of this charter;  
379 (5) Abandonment of office or neglect to perform the duties thereof; or



380 (6) Failure for any cause to perform the duties of office as required by this charter or by  
381 state law.

382 (b) Removal of any officer pursuant to subsection (a) of this section shall be accomplished  
383 by one of the following methods:

384 (1) By the vote of the entire remaining councilmembers after an investigative hearing.  
385 In the event an elected officer is sought to be removed by the action of the town council,  
386 such officer shall be entitled to a written notice specifying the ground or grounds for  
387 removal and to a public hearing which shall be held not less than ten days after the  
388 service of such written notice. Any elected officer sought to be removed from office as  
389 provided in this section shall have the right of appeal from the decision of the town  
390 council to the Superior Court of Habersham County. Such appeal shall be governed by  
391 the same rules as govern appeals to the superior court from the probate court; or

392 (2) By an order of the Superior Court of Habersham County following a hearing on a  
393 complaint seeking such removal brought by a resident of the Town of Mount Airy.

394 **SECTION 2.18.**

395 Exercise of powers.

396 All powers, functions, rights, privileges, and immunities of the town, its officers, agencies,  
397 or employees shall be carried into execution as provided by the Constitution of Georgia, by  
398 general law, or by this charter. If general law and this charter make no provision, such shall  
399 be carried into execution as provided by ordinance.

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**SECTION 2.19.**

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Inquiries and investigations.

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

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**SECTION 2.20.**

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General power and authority of the town council.

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Except as otherwise provided by this charter, the town council, also known as the council, shall be vested with all the powers of government of this town as provided in Article I.

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**SECTION 2.21.**

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Organization meeting.

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The town council shall meet for organization on the second Monday in January of each year or as soon thereafter as practical. The meeting shall be called to order by either the mayor, mayor pro tempore, or the most senior councilmember who is not being sworn in and the oath of office shall be administered by the town clerk, or a judicial officer authorized to administer oaths, to the newly elected members as follows:

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"I do solemnly swear (or affirm) that I will well and faithfully perform the duties of a town councilmember (or mayor) of the Town of Mount Airy, Georgia to the best of my skill and ability and that I will support and defend the charter thereof as well as the Constitution and laws of the State of Georgia and of the United States of America without favor or affection.

422 I will adopt such measures, rules, and regulations as in my judgment shall be best  
423 calculated to promote the welfare of the inhabitants of said town, without prejudice, so help  
424 me God."

425 **SECTION 2.22.**

426 Regular and special meetings.

427 (a) The town council shall hold regular meetings at such times and places as prescribed by  
428 ordinance or resolution.

429 (b) In instances of unforeseen circumstances, councilmembers are allowed to attend  
430 meetings by telephone or video conferencing but be limited to only one regularly scheduled  
431 meeting annually, unless accompanied by a physician's written excuse.

432 (c) Special meetings of the town council may be held on call of the mayor or two  
433 councilmembers. Notice of such special meetings shall be served on all other members  
434 personally verbally or in writing, or by telephone personally, at least 24 hours in advance of  
435 the meeting. Such notice to councilmembers shall not be required if all town council  
436 members are present when the special meeting is called. Such notice of any special meeting  
437 may be waived by a councilmember in writing before or after such a meeting, and attendance  
438 at the meeting shall also constitute a waiver of notice on any business transacted in such  
439 councilmember's presence. Except where waiver by all members is effected by their  
440 presence or in writing, only the business stated in the call may be transacted at the special  
441 meeting.

442 (d) All meetings of the town council shall be public to the extent required by general state  
443 law and notice to the public of all meetings shall be made as required by general state law.

444

**SECTION 2.23.**

445

Rules of procedure.

446 (a) The town council shall adopt its rules of procedure and order of business consistent with  
447 the provisions of this charter and shall provide for keeping minutes of its proceedings  
448 according to general state law, and which shall be a public record.

449 (b) All committees and committee chairperson and officers of the town council shall be  
450 appointed by the mayor with council approval. The town council, by a majority vote, shall  
451 have the power to remove members of any committee and the power to appoint new  
452 members to any committee, at any time, within the town council's discretion.

453

**SECTION 2.24.**

454

Quorum; voting.

455 (a) Except as otherwise provided in subsection (b) of this section, the mayor and three  
456 councilmembers or the mayor pro tempore and three councilmembers shall constitute a  
457 quorum and shall be authorized to transact business of the town council. Voting on the  
458 adoption of ordinances shall be taken by voice vote and the ayes and nays shall be recorded  
459 in the minutes, but any member of the town council shall have the right to request a roll-call  
460 vote. Except as otherwise provided in this charter, the affirmative vote of three  
461 councilmembers shall be required for the adoption of any ordinance or resolution.

462 (b) In the event vacancies in office result in less than a quorum of councilmembers holding  
463 office, then the remaining councilmembers in office shall constitute a quorum and shall be  
464 authorized to transact business for the town council. A vote of a majority of the remaining  
465 councilmembers shall be required for the adoption of any ordinance or resolution.

466

**SECTION 2.25.**

467

Ordinance form; procedure; notice and reading.

468 (a) Every proposed ordinance shall be introduced in writing and must be finalized at the time  
469 of its second reading for final adoption. The ordinance shall not contain a subject not  
470 expressed in the title, and it shall include the following enacting clause: "It is hereby ordained  
471 by the governing authority of the Town of Mount Airy..."

472 (b) An ordinance may be introduced by any councilmember. Before an ordinance can be  
473 voted on, it must be introduced for its first reading and voted on at one meeting, either  
474 regular or special, and passed to be moved on to the second meeting, either regular or special,  
475 for its second reading and adoption.

476 (c) Upon passage, all ordinances shall be signed by the mayor, or mayor pro tempore if he  
477 or she is presiding, and the town clerk.

478 (d) Failure to comply with the technical requirements of this section shall not invalidate an  
479 ordinance if the intention of the governing authority that the ordinance be effective is  
480 evident.

481

**SECTION 2.26.**

482

Actions having force and effect of law.

483 Notwithstanding any other provisions of this charter, acts of the town council which have the  
484 force and effect of law may be done by ordinance or resolution of the town council, except  
485 that any act of the town council to amend the charter or the code of ordinances or any other  
486 act required by general state law to be done by ordinance shall be done by ordinance.

487 **SECTION 2.27.**

488 Emergencies.

489 To meet a public emergency affecting life, health, property, or public peace, the town council  
490 may convene on call of the mayor or two councilmembers and promptly adopt an emergency  
491 ordinance, but such ordinance may not levy taxes, grant, renew, or extend a franchise,  
492 regulate the rate charged by any public utility for its services, or authorize the borrowing of  
493 money except for loans to be repaid within 30 days. Any emergency ordinance shall be  
494 introduced in the form prescribed for ordinances generally, except that it shall contain, after  
495 the enacting clause, a declaration stating that an emergency exists and describing it in clear  
496 and specific terms. It shall become effective upon adoption or at such later time as it may  
497 specify. Every emergency ordinance shall automatically stand repealed 30 days following  
498 the date upon which it is adopted, but this shall not prevent reenactment of the ordinance in  
499 the manner specified in this section if the emergency still exists. An emergency ordinance  
500 may also be repealed by adoption of a repealing ordinance in the same manner specified in  
501 this section for adoption of emergency ordinances.

502 **SECTION 2.28.**

503 Codes of technical regulations.

- 504 (a) The town council may adopt any standard code of technical regulations by reference  
505 thereto in an adopting ordinance. The procedure and requirements governing such adopting  
506 ordinance shall be as prescribed for ordinances generally.
- 507 (b) Copies of any adopted code of technical regulations shall be made available by the town  
508 clerk for distribution or for purchase at a reasonable price.

509

**SECTION 2.29.**

510

Signing; authenticating; recording; compilation; printing.

511 (a) The town clerk shall authenticate by his or her signature and record in full in a properly  
512 indexed book or record kept for the purpose all ordinances and resolutions adopted by the  
513 town council.

514 (b) The town council shall provide for the preparation of a general compilation of all of the  
515 ordinances and resolutions of the town having the force and effect of law. The general  
516 compilation shall be adopted by the town council and shall be published as soon as is  
517 practicable, together with all amendments thereto and such codes of technical regulations and  
518 other rules and regulations as the town council may specify. This compilation shall be  
519 known and cited officially as "The Official Code of the Town of Mount Airy, Georgia."  
520 Copies of the code shall be furnished to all officers, departments, and agencies of the town  
521 and made available for purchase by the public at a reasonable price as fixed by the town  
522 council.

523 (c) The town council shall cause each ordinance and each amendment to this charter to be  
524 published as soon as is practicable following its adoption, and the published ordinances and  
525 charter amendments shall be made available for purchase by the public at reasonable prices  
526 to be fixed by the town council. Following publication of the first code under this charter  
527 and at all times thereafter, the ordinances and charter amendments shall be printed in  
528 substantially the same style as the compilation currently in effect and shall be suitable in  
529 form for incorporation therein. The town council shall make such further arrangements as  
530 deemed desirable with respect to reproduction and distribution of any current changes in or  
531 additions to codes of technical regulations and other rules and regulations included in the  
532 code.

533

**SECTION 2.30.**

534

Chief executive officer; delegation of powers.

535 The mayor shall be the chief executive officer of the town. The mayor shall possess all of  
536 the executive powers granted to the town under the Constitution and laws of the State of  
537 Georgia, and all the executive powers contained in this charter, except as otherwise  
538 specifically provided in this charter. The mayor shall have the authority to delegate any one  
539 or more executive powers to a person or persons employed by the town and qualified in  
540 management and administration. The mayor may, but is not required to, recommend an  
541 officer whose title shall be town manager and who if appointed shall be the head of the  
542 administrative branch of the town government on a daily basis. If the mayor recommends  
543 a town manager, the town manager shall be appointed by the town council. As chief  
544 executive officer, the mayor will supervise the town manager, if appointed, and the town  
545 manager shall administratively handle the operations of the town on a daily basis. If a town  
546 manager is not appointed, the mayor shall be directly responsible for ensuring the daily  
547 administrative operation of the town is conducted pursuant to law and this charter.

548

**SECTION 2.31.**

549

Powers and duties of mayor.

550 As the chief executive officer of this town, the mayor shall:

- 551 (1) Supervise the town manager, if appointed, and all departments to see that all laws,  
552 resolutions, and ordinances of the town are faithfully executed;
- 553 (2) Review and approve the appointment or removal of any officers, department heads,  
554 and employees of the town except as otherwise provided for in this charter;
- 555 (3) Exercise supervision over all executive and administrative work of the town and  
556 provide for the coordination of administrative activities;



- 557 (4) Exercise supervision over the town manager's, if appointed, and finance director's  
558 preparation and submission to the town council a recommended annual operating budget  
559 and recommended capital budget;
- 560 (5) Insure that the town manager, if appointed, or finance director shall submit to the  
561 town council at least quarterly a statement covering the financial conditions of the town  
562 and from time to time such other information as the town council may request;
- 563 (6) Prepare and set each town council meeting's agenda;
- 564 (7) Preside over all meetings of the town council;
- 565 (8) Call special meetings of the town council as provided for in Section 2.22;
- 566 (9) Participate in the discussion of all matters brought before the town council and vote  
567 on such matters only in the case of a tie vote;
- 568 (10) Recommend to the town council such measures relative to the affairs of the town,  
569 improvement of the government, and promotion of the welfare of its inhabitants as it may  
570 deem expedient;
- 571 (11) Approve or disapprove ordinances as provided in Section 2.32;
- 572 (12) Require any department or agency of the town to submit written reports whenever  
573 deemed expedient;
- 574 (13) Sign as a matter of course all written contracts, ordinances, and other instruments  
575 executed by the town which by law are required to be in writing;
- 576 (14) Perform the duties of town manager, without additional compensation, should that  
577 office be vacant for any reason;
- 578 (15) Perform such other duties as may be required by general state law, this charter, or  
579 ordinance; and
- 580 (16) Perform such other duties that provide oversight for all departments to remain in  
581 compliance with all town, state, and federal mandates and regulations.

582

**SECTION 2.32.**

583

Submission of ordinances and resolutions to the mayor; veto power.

584

(a) Every ordinance and resolution adopted by the town council shall be presented by the town clerk to the mayor within three days after its adoption.

586

(b) The mayor shall within ten days of receipt of an ordinance or resolution return it to the town clerk with or without approval, or with disapproval. If the ordinance or resolution has been approved by the mayor, it shall become law upon its return to the town clerk; if the ordinance or resolution is neither approved nor disapproved, it shall become law on the fifteenth day after its adoption; if the mayor exercises his or her veto the ordinance or resolution is disapproved, and the mayor shall submit to the town council through the town clerk a written statement of the reasons for the veto. The town clerk shall record upon the ordinance or resolution the date of its delivery to and receipt from the mayor.

594

(c) Ordinances and resolutions vetoed by the mayor shall be presented by the town clerk to the town council at its next meeting and should the town council then adopt the ordinance by the affirmative vote of four councilmembers, it shall become law.

597

(d) The mayor may disapprove or reduce any item or items of appropriation in any ordinance or resolution. The approved part or parts of any ordinance or resolution making appropriations shall become law, and the part or parts disapproved shall not become law unless subsequently passed by the town council over the mayor's veto as provided in this section. The reduced part or parts shall be presented to the town council as though disapproved and shall not become law unless overridden by the council as provided in subsection (c) of this section.

600

601

602

603

604 **SECTION 2.33.**

605 Mayor pro tempore.

606 The town council at the first regular meeting in January of each year shall elect from its  
607 membership a mayor pro tempore for a term of one year. In the event that no decision is  
608 reached at such first regular meeting, the town council shall elect from its membership,  
609 within ten days following such meeting, the mayor pro tempore; otherwise, the current mayor  
610 pro tempore will continue for another year. The mayor pro tempore shall perform the duties  
611 of the mayor during the mayor's absence or inability to act and shall fill out any unexpired  
612 term in the office of mayor, in which case a new mayor pro tempore shall be elected by  
613 majority vote of the town council.

614 **SECTION 2.34.**

615 Town manager and acting town manager.

616 (a)(1) The mayor may, but is not obligated to, recommend an officer whose title shall  
617 be town manager and who shall, if appointed, be the head of the administrative branch  
618 of the town government on a daily basis. The town manager, if recommended by the  
619 mayor, shall be appointed by the town council on the basis of qualifications for the  
620 position as such with special reference to actual experience in and knowledge of the  
621 duties of the office as hereinafter prescribed.

622 (2) If appointed, the town manager shall:

623 (A) Have received a bachelor's degree as a minimum educational requirement or, in  
624 lieu thereof, a minimum of ten years experience in a town in an executive supervisory  
625 capacity;

626 (B) Serve at the pleasure of the town council; and

627 (C) Receive such salary as the town council may fix.

628 (3) Should the mayor or town council not fill the office of town manager for any reason,  
629 including but not limited to choosing not to have a town manager or should the office be  
630 vacant for any reason, then the mayor shall be responsible for ensuring the daily  
631 administrative operation of the town is conducted pursuant to law and this charter.

632 (b) Acting town manager. By letter filed with the town clerk, the mayor shall designate a  
633 qualified administrative officer, or designate himself or herself, to execute the powers and  
634 perform the duties of the town manager during the town manager's temporary absence or  
635 disability.

### 636 SECTION 2.35.

#### 637 Powers and duties of town manager.

638 (a) If appointed, the town manager shall be responsible to the mayor for the proper  
639 administration of all affairs of the town. As chief administrator, the town manager shall have  
640 the power to recommend appointment and removal of any officers, department heads, and  
641 employees in the administrative service of the town except the town engineer, town attorney,  
642 town auditor, and the municipal judge; and these officers shall be administratively  
643 responsible to the town manager, except the town engineer, town attorney, town auditor, and  
644 the municipal judge who shall be appointed or removed by the mayor and subject to the  
645 confirmation by the town council unless otherwise provided by law. The mayor as  
646 determined in his or her discretion can modify any personnel decision made by the town  
647 manager. It shall be the duty of the town manager to supervise the administration of the  
648 affairs of the town; to see that the ordinances, resolutions, and regulations of the town  
649 council and the laws of the state are faithfully executed and enforced; to make such  
650 recommendations to the town council concerning the affairs of the town as he or she shall  
651 deem expedient; to keep the town council advised of the financial condition and future  
652 financial needs of the town; to attend all meetings of the town council; and to prepare and

653 to submit to the town council such reports as may be deemed expedient or as may be required  
654 by the town council. The town manager shall perform such other functions as assigned by  
655 the mayor; provided, however, that remuneration shall not exceed the amount of salary fixed  
656 in Section 2.34.

657 (b) The town manager shall be designated and given authority to delegate duties as the  
658 purchasing agent and the personnel officer of the Town of Mount Airy. The town manager  
659 shall have responsibility for preparing and implementing the budget following budgetary  
660 review and adoption by the town council in a regular meeting. All department heads  
661 employed by the town shall be administratively accountable to the town manager. All  
662 appointed officers or other agents employed by the legislative body shall be administratively  
663 communicative with the town manager.

### 664 **ARTICLE III**

#### 665 **ADMINISTRATIVE AFFAIRS**

#### 666 **SECTION 3.10.**

##### 667 **Administrative and service departments.**

668 (a) Except as otherwise provided in this charter, the town council, by ordinance or resolution  
669 as appropriate, shall prescribe the functions or duties of and establish, abolish, or alter all  
670 nonelective offices, positions of employment, departments, and agencies of the town as  
671 necessary for the proper administration of the affairs and government of this town.

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

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

677 (d) There shall be a director of each department or agency who shall be its principal officer.  
678 Each director shall, subject to the direction and supervision of the town manager and mayor,  
679 be responsible for the administration and direction of the affairs and operation of his or her  
680 department or agency.

681 (e) All appointive officers and directors under the supervision of the town manager, if  
682 appointed, or to the mayor if a town manager is not appointed, shall be nominated by the  
683 town manager, or in the absence of an appointed town manager the mayor, with confirmation  
684 of appointment by the town council. All appointive officers and directors shall be employees  
685 at-will and subject to removal or suspension at any time by the town manager with approval  
686 by the mayor, or if no town manager is appointed by the mayor, or otherwise provided by  
687 law or ordinance.

688 **SECTION 3.11.**

689 **Boards, commissions, and authorities.**

690 (a) The town council shall create by ordinance or resolution as appropriate such boards,  
691 commissions, and authorities to fulfill any investigative, quasi-judicial, or quasi-legislative  
692 functions as the town council deems necessary and shall by ordinance or resolution as  
693 appropriate establish the composition, period of existence, duties, and powers thereof.

694 (b) All members of boards, commissions, and authorities of the town shall be appointed by  
695 the town council for such terms of office and in such manner as shall be provided by  
696 ordinance or resolution as appropriate, except where other appointing authority, term of  
697 office, or manner of appointment is prescribed by this charter or general state law.

698 (c) The town council, by ordinance or resolution as appropriate, may provide the  
699 compensation and reimbursement for actual and necessary expenses of the members of any  
700 board, commission, or authority.

701 (d) Except as specifically authorized by general law or authorized by the town council, no  
702 member of any board, commission, or authority shall hold any elective office in the town.

703 (e) Any vacancy on a board, commission, or authority of the town shall be filled for the  
704 unexpired term in the manner prescribed herein for original appointment, except as otherwise  
705 provided by this charter, by general law, or by resolution.

706 (f) No member of a board, commission, or authority shall assume office until he or she has  
707 executed and filed with the town clerk an oath obligating himself or herself to perform  
708 faithfully and impartially the duties of his or her office, such oath to be prescribed by  
709 ordinance or resolution as appropriate and administered by the mayor.

710 (g) Any member of the board, commission, or authority may be removed from office for any  
711 reason by a majority vote of the town council.

712 (h) Except as otherwise provided by this charter or by general state law, each board,  
713 commission, or authority of the town shall elect one of its members as chairperson and one  
714 member as vice-chairperson and one member as secretary. Each board, commission, or  
715 authority of the town government may establish such bylaws, rules, and regulations, not  
716 inconsistent with this charter, ordinances of the town, or general state law, as it deems  
717 appropriate and necessary for the fulfillment of its duties or the conduct of its affairs and  
718 which are approved by the town council, copies of which shall be filed with the town clerk.

719 **SECTION 3.12.**

720 Town attorney.

721 (a) The mayor, subject to the approval of the town council, shall appoint a town attorney  
722 who shall be a member of the State Bar of Georgia and shall have actively practiced law for  
723 a minimum of five years. The town attorney shall serve at the pleasure of the town council.

724 (b) It shall be the duty of the town attorney to serve as legal advisor to the mayor, town  
725 council, town manager, and other town officials with respect to the affairs of the town; to

726 draw proposed ordinances when requested to do so; to inspect and determine the legality and  
727 form of all agreements, contracts, franchises, and other instruments with which the town may  
728 be concerned; to attend meetings of the town council upon request of the town council; and  
729 to perform such other duties as may be required by virtue of the position of town attorney.  
730 The compensation of the town attorney shall be set by the town council.  
731 (c) The town attorney is not a public official and does not take an oath of office. The town  
732 attorney shall at all times be an independent contractor, and a law firm, rather than an  
733 individual, may be designated as town attorney.

734 **SECTION 3.13.**

735 Town clerk.

736 (a) The town council shall appoint an officer who shall perform the duties of the town clerk,  
737 and shall not be a member of the town council. The town clerk shall keep a journal of the  
738 proceedings of the town council, maintain a safe place for all records and documents  
739 pertaining to the affairs of the town, and perform such other duties as may be required by law  
740 or as the mayor and town council may approve in a regular meeting.  
741 (b) Generally, the town clerk is administratively responsible to the town manager and mayor.  
742 The town clerk is responsible for completing administrative duties such as gathering  
743 information, reports, minutes and performing other clerical duties for the purpose of  
744 providing the mayor and council with information needed to make decisions in the best  
745 interest of the town.  
746 (c) The town clerk shall direct and supervise the work of personnel involved in performing  
747 utility billing, property tax collection, and accounts receivable.  
748 (d) The town clerk shall collect all taxes, fees, and other monies owed to the town, subject  
749 to applicable provisions of this charter, ordinances, or state law.



750 (e) The town clerk shall also enforce all laws and town ordinances related to the collection  
751 of delinquent taxes and the sale or foreclosure for nonpayment of taxes and other  
752 indebtedness to the town.

753 (f) The town clerk is also designated as the ex officio sheriff for the town so as to enable  
754 such officer to do all things required by the town charter, and state law as to the collection  
755 of town taxes, including, but not limited to, conducting levies and sales under tax executions  
756 and collecting all costs, penalties, interest, and permissible charges associated with any  
757 actions taken in such capacity.

758 (g) The town clerk shall be designated as the town's record custodian and ensures that all  
759 records are properly maintained in accordance to the established records retention policy as  
760 adopted by the town council.

761 **SECTION 3.14.**

762 Personnel policies.

763 The town council may adopt rules and regulations consistent with this charter concerning:

764 (1) The method of employee selection and probationary periods of employment;

765 (2) The administration of a position classification and pay plan;

766 (3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay,  
767 retirement, and the manner in which layoffs shall be effected;

768 (4) Instituting civil service regulations for employees and, as to which, personnel  
769 decisions of the town manager, mayor, and town council would be subject;

770 (5) Such other personnel policies as may be necessary to provide for adequate and  
771 systematic handling of the personnel affairs of the Town of Mount Airy; and

772 (6) Notwithstanding the foregoing, all employees and personnel of the town are at-will  
773 employees, unless the town council enters into a written employment contract or creates  
774 by ordinance a personnel system providing for removal of employees only for cause.

775 **SECTION 3.15.**  
776 Comprehensive land use plan.

777 A comprehensive land use plan shall be adopted by the town council and official updates to  
778 this plan shall be made as provided by general state law.

779 **ARTICLE IV**  
780 **JUDICIAL BRANCH**

781 **SECTION 4.10.**  
782 Creation; name.

783 There shall be a court to be known as the Mount Airy Municipal Court.

784 **SECTION 4.11.**  
785 Chief judge; associate judge.

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

788 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless  
789 he or she shall have attained the age of 25 years, is a member in good standing of the State  
790 Bar of Georgia, and meets any qualifications established by general law. No other officers  
791 of the Town of Mount Airy may serve as the chief municipal judge. All judges shall be  
792 appointed and removed as provided by general law. Upon the effective date of this charter,  
793 the present presiding chief municipal judge may be eligible to continue holding office subject  
794 to the approval of the mayor with approval of the council.

795 (c) Compensation of the judges shall be fixed by resolution of the town council.

796 (d) Before entering on the duties of his or her office, each judge not presently serving at the  
797 time of enactment of the charter shall take an oath given by the mayor that he or she will  
798 honestly and faithfully discharge the duties of his or her office to the best of his or her ability  
799 without fear, favor, or partiality. The oath shall be similar in form as set out in Section 2.21  
800 and shall be entered upon the minutes of the town council.

801 **SECTION 4.12.**

802 Clerk of municipal court.

803 The mayor, or if one is appointed the town manager, shall appoint, in consultation with the  
804 chief municipal judge, a municipal employee to serve as the clerk of the municipal court.  
805 The clerk of the municipal court shall attend all hearings and be responsible for all records  
806 of said municipal court.

807 **SECTION 4.13.**

808 Convening.

809 The municipal court shall be convened at regular intervals as designated by procedure set by  
810 the town council.

811 **SECTION 4.14.**

812 Jurisdiction; power.

813 (a) The municipal court shall try and punish violations of all town ordinances and such  
814 violations of state law allowed to be tried in municipal court under the general laws of the  
815 State of Georgia.

816 (b) The municipal court shall have authority to punish those in its presence for contempt,  
817 provided that such punishment shall not exceed the amount as allowed by state law.

818 (c) The municipal court may fix punishment for offenses within its jurisdiction not  
819 exceeding a fine or imprisonment permissible by state law. A fine levied by the municipal  
820 court shall not be subject to suspension, stay, or probation except that, if the fine will impose  
821 an economic hardship on the defendant, the judge of the municipal court, in his or her sole  
822 discretion, may order the defendant to pay such fine in installments or under an order of  
823 probation, and such order may be enforced through a contempt proceeding.

824 (d) The municipal court shall have authority to establish a schedule of fees to defray the cost  
825 of operations/enforcement and shall be entitled to reimbursement of the cost of jail fees,  
826 administrative and/or processing fees, technology fees, and court costs for violations of  
827 municipal and state law. An assessment for such fees shall be in addition to any fines or  
828 statutory fees, or both, assessed. An assessment for court costs shall not exceed amounts  
829 allowed by state law. Additionally, the town may assess technology fees not to exceed an  
830 amount allowed by state law.

831 (e) The municipal court shall have authority to establish bail and recognizances to ensure  
832 the presence of those charged with violations before said court and shall have discretionary  
833 authority to accept cash or personal or real property as surety for the appearance of persons  
834 charged with violations. Whenever any person shall give bail for his or her appearance and  
835 shall fail to appear at the time fixed for trial, his or her bond shall be forfeited by the judge  
836 presiding at such time. In the event that cash or property is accepted in lieu of bond for  
837 security for the appearance of a defendant at trial and if such defendant fails to appear at the  
838 time and place fixed for trial, the cash so deposited shall be on order of the judge declared  
839 forfeited to the town, or the property so deposited shall have a lien against it for the value  
840 forfeited, which lien shall be enforceable in the same manner and to the same extent as a lien  
841 for town property taxes.

842 (f) The municipal court shall have the authority to bind prisoners over to the appropriate  
843 court when it appears by probable cause that state law has been violated and a jury trial is  
844 requested.

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

848 (h) The municipal court may compel the presence of all parties necessary to a proper  
849 disposal of each case by the issuance of summonses, subpoenas, and warrants which may be  
850 served as executed by an officer as authorized by this charter or by general state law. All  
851 judges of the municipal court and the clerk of the municipal court are authorized to issue  
852 warrants for the arrest of persons charged with offenses against any ordinance of the town  
853 or as to violations of state law. A fee not to exceed state law is permissible.

854 (i) The municipal court is specifically vested with all of the jurisdiction and powers  
855 throughout the entire area of this town granted by general state laws to municipal courts,  
856 mayor's, recorder's, and police courts, and particularly by such laws as authorize the  
857 abatement of nuisances and prosecution of traffic violations.

858 **SECTION 4.15.**

859 **Certiorari.**

860 The right of certiorari from the decision and judgment of the municipal court shall exist in  
861 all cases, and such certiorari shall be obtained under the sanction of a judge of the  
862 appropriate court of Habersham County under the laws of the State of Georgia regulating the  
863 granting and issuance of writs of certiorari.

864 **SECTION 4.16.**

865 Rules for court.

866 With the approval of the town council, the judge shall have the full power and authority to  
867 make reasonable rules and regulations necessary to secure the proper administration of the  
868 municipal court and to require the prosecution by a prosecuting officer or by a town council  
869 appointed solicitor; provided, however, that the town council may adopt in part or in whole  
870 the rules and regulations for procedure in the superior court under the general laws of the  
871 State of Georgia. The rules and regulations made or adopted shall be filed with the town  
872 clerk, shall be available for public inspection, and, upon request, a copy shall be furnished  
873 to all defendants in municipal court proceedings.

874 **SECTION 4.17.**

875 Probation.

876 The Mount Airy Municipal Court may establish rules and regulations to allow those  
877 convicted of ordinances or violations of state law to serve their sentence pursuant to such  
878 terms of probation as may be set by the municipal judge. The municipal court may establish  
879 or contract for probation services as determined are necessary for the proper operation of the  
880 court by the municipal judge and as approved by the town council.

881 **ARTICLE V**  
882 **FINANCE**

883 **SECTION 5.10.**  
884 **Property tax.**

885 The town council may assess, levy, and collect an ad valorem tax on all real and personal  
886 property within the corporate limits of the town that is subject to such taxation by the state  
887 and county. This tax is for the purpose of raising revenues to defray the costs of operating  
888 the town government, providing governmental services, for the repayment of principal and  
889 interest on general obligations, and for any other public purpose as determined by the town  
890 council in its discretion.

891 **SECTION 5.11.**  
892 **Millage rate; due dates; payment methods.**

893 The town council, by ordinance, shall establish a millage rate for the town property tax, a due  
894 date, and in what length of time these taxes must be paid. The town council, by ordinance,  
895 may provide for the payment of these taxes by installments or in one lump sum and may  
896 authorize the voluntary payment of taxes prior to the time when due.

897 **SECTION 5.12.**  
898 **Occupation and business taxes.**

899 The town council, by ordinance, shall have the power to levy such occupation or business  
900 taxes as authorized by general state law. Such taxes may be levied on both individuals and  
901 corporations who transact business in this town or who practice or offer to practice any

902 profession or calling therein to the extent such persons have a constitutionally sufficient  
903 nexus to this town to be so taxed. The town council may classify businesses, occupations,  
904 professions, or callings for the purpose of such taxation in any way which may be lawful and  
905 compel the payment of such taxes as provided in Section 5.18.

906 **SECTION 5.13.**

907 Licenses; permits, fees.

908 The town council, by ordinance, shall have the power to require any individuals or  
909 corporations who transact business in this town or who practice or offer to practice any  
910 profession or calling therein to obtain a license or permit for such activity from the town and  
911 pay a reasonable fee for such license or permit where such activities are not now regulated  
912 by general state law in such a way as to preclude town regulation. Any fee charged shall be  
913 a reflection of the cost to the town to regulate the business. Such fees, if unpaid, shall be  
914 collected as provided in Section 5.18. The town council, by ordinance, may establish  
915 reasonable requirements for obtaining or keeping such licenses as the public health, safety,  
916 and welfare necessitates.

917 **SECTION 5.14.**

918 Franchises.

919 The town council shall have the power to grant franchises for the use of the town's street and  
920 alleys for the purposes of railroads, street railways, telephone companies, electric companies,  
921 and other similar organizations. The town council shall determine the duration, provisions,  
922 terms, whether the same shall be exclusive or nonexclusive, and the consideration for such  
923 franchises. The town council shall have the right to set franchise fees as to state franchises  
924 as allowed by the general laws of the State of Georgia.



925 **SECTION 5.15.**

926 Services charges.

927 The town council, by ordinance, shall have the power to assess and collect fees, charges, and  
928 tolls for law enforcement, fire, emergency, water, zoning, sewer, sanitary, health services,  
929 and any other services rendered within and without the corporate limits of the town, or as to  
930 providing the availability of said services, or both. If unpaid, such charges shall be collected  
931 as provided in Section 5.18.

932 **SECTION 5.16.**

933 Special assessments.

934 The town council, by ordinance, shall have the power to assess and collect the cost of  
935 constructing, reconstructing, widening, or improving any public way, street, sidewalk,  
936 curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property  
937 owners under such terms and conditions as are reasonable. If unpaid, such charges shall be  
938 collected as provided in Section 5.18.

939 **SECTION 5.17.**

940 Construction; other taxes.

941 The town council shall be empowered to levy any other tax allowed now or hereafter by state  
942 law and the special mention of any right, power, or authority in this article shall not be  
943 construed as limiting in any way the general powers of this town to govern its local affairs.

944

**SECTION 5.18.**

945

Collection of delinquent taxes and fees.

946 The town council, by ordinance, may provide generally for the collection of delinquent taxes,  
947 fees, charges, or other revenue due the town by whatever reasonable means as are not  
948 precluded by general state law, including but not limited to the termination of town services  
949 such as water or sewer, or both. This shall include providing for the dates when the taxes or  
950 fees are due, late penalties or interest, issuance and execution of fi.fas., creation and priority  
951 of liens, making delinquent taxes and fees personal debts of the persons required to pay the  
952 taxes or fees imposed, revoking town licenses for failure to pay any town taxes or fees,  
953 allowing exceptions for hardship, and providing for the assignment or transfer of tax  
954 executions.

955

**SECTION 5.19.**

956

General obligation bonds.

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

961

**SECTION 5.20.**

962

Revenue bonds.

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

966 **SECTION 5.21.**

967 Short-term loans.

968 Any short-term loan obtained by the town must be repaid by December 31 of the year in  
969 which the loan was obtained unless otherwise provided by present or future state law.

970 **SECTION 5.22.**

971 Fiscal year.

972 The town council shall set the fiscal year by resolution. This fiscal year shall constitute the  
973 budget year and the year for financial accounting and reporting of each and every office,  
974 department, agency, and activity of the town government, unless otherwise provided by  
975 general state or federal law.

976 **SECTION 5.23.**

977 Action by town council on budget.

978 (a) The town council shall adopt and may thereafter amend an annual budget, by resolution,  
979 except that the budget as finally adopted and amended must provide for all expenditures  
980 required by state law or by other provisions of this charter and for all debt service  
981 requirements for the ensuing fiscal year and the total appropriations from any fund shall not  
982 exceed the estimated fund balance, reserves, and revenues.

983 (b) The amount set out in the adopted budget for each organizational unit shall constitute the  
984 annual appropriation for such; and no expenditure shall be made or encumbrance created in  
985 excess of the otherwise unencumbered balance of the appropriations or allotment thereof to  
986 which it is chargeable unless by a majority vote of the town council.

987 **SECTION 5.24.**

988 Tax levies.

989 After adoption of the budget, in a timely fashion, the town council shall levy, by ordinance,  
990 such taxes as are necessary. The taxes and tax rates set by such ordinance shall be such that  
991 reasonable estimates of revenues from such levy shall at least be sufficient, together with  
992 other anticipated revenues, fund balances, and applicable reserves, to equal the total amount  
993 appropriated for each of the several funds set forth in the total amount of the operating  
994 budget for defraying the expenses of the general government of this town.

995 **SECTION 5.25.**

996 Changes in appropriations.

997 The town council, by majority vote, may make changes by resolution in the appropriations  
998 contained in the current operating budget at any regular meeting or special or emergency  
999 meeting called for such purpose.

1000 **SECTION 5.26.**

1001 Independent audit.

1002 There shall be an annual independent audit of all town accounts, funds, and financial  
1003 transactions by a certified public accountant selected by the town council as required by  
1004 general state law. The audit shall be conducted according to generally accepted auditing  
1005 standards. Any audit of any funds by the state or federal government may be accepted by  
1006 satisfying the requirements of this charter. Copies of all audit reports shall be available at  
1007 printing cost to the public.

**SECTION 5.27.**

1008

1009

Contracting procedures.

1010 No contract with the town shall be binding on the town unless:

1011 (1) It is in writing; and

1012 (2) It is made or authorized by and approved by the town council and such approval is

1013 entered in the town council minutes.

**SECTION 5.28.**

1014

1015

Centralized purchasing.

1016 The town council may prescribe procedures for a system of centralized purchasing for the

1017 town.

**SECTION 5.29.**

1018

1019

Sale of town property.

1020 (a) The town council may sell and convey any real or personal property owned or held by  
1021 the town for governmental or other purposes as provided by general state law.1022 (b) The town council may quitclaim any rights it may have in property not needed for public  
1023 purposes upon an adoption of a resolution, both finding that the property is not needed for  
1024 public or other purposes and that the interest of the town is of no readily ascertainable  
1025 monetary value.1026 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place  
1027 of the town, a small parcel or tract is cut off or separated by such work from a larger tract or  
1028 boundary of land owned by the town, the town council may authorize the town manager to  
1029 execute and deliver in the name of the town a deed conveying said cutoff or separated parcel

1030 or tract of land to an abutting or adjoining property owner or owners in exchange for rights  
1031 of way of said street, avenue, alley, or public place or in settlement of any alleged damages  
1032 sustained by said abutting or adjoining property owner. All deeds and conveyances  
1033 heretofore and hereafter so executed and delivered shall convey all title and interest the town  
1034 has in such property, notwithstanding the fact that no public sale after advertisement was or  
1035 is hereafter made.

1036 **ARTICLE VI**  
1037 **GENERAL PROVISIONS**

1038 **SECTION 6.10.**  
1039 Official bonds.

1040 The officers and employees of this town, both elective and appointive, shall execute such  
1041 official bonds in such amounts and upon such terms and conditions as the town council shall  
1042 from time to time require by ordinance or as may be provided by state law.

1043 **SECTION 6.11.**  
1044 Prior ordinances.

1045 All ordinances, bylaws, rules, and regulations now in force in the town not inconsistent with  
1046 this charter are declared valid and of full effect and force until amended or repealed by the  
1047 town council.

1048 **SECTION 6.12.**

1049 Pending matters.

1050 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,  
1051 contracts, and legal or administrative proceedings shall continue; and any such ongoing work  
1052 or cases shall be dealt with by such town agencies, personnel, or offices as may be provided  
1053 by the town council.

1054 **SECTION 6.13.**

1055 Construction.

1056 (a) Section captions in this charter are informative only and are not to be considered as a part  
1057 thereof.

1058 (b) The word "shall" is mandatory and the word "may" is permissive.

1059 (c) The singular shall include the plural, the masculine shall include the feminine, and vice  
1060 versa.

1061 **SECTION 6.14.**

1062 Severability.

1063 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be  
1064 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect  
1065 or impair other parts of this charter unless it clearly appears that such other parts are wholly  
1066 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the  
1067 legislative intent in enacting this charter that each article, section, subsection, paragraph,  
1068 sentence, or part thereof be enacted separately and independent of each other.

1069 **SECTION 6.15.**

1070 Specific repealer.

1071 An Act incorporating the Town of Mount Airy in Habersham County, approved  
1072 March 3, 1874 (Ga. L. 1874, p. 159), is hereby repealed in its entirety, and all amendatory  
1073 acts thereto are likewise repealed in their entirety.

1074 **SECTION 6.16.**

1075 General repealer.

1076 All laws and parts of laws in conflict with this Act are hereby repealed.