

House Bill 623 (AS PASSED HOUSE AND SENATE)

By: Representatives Ridley of the 6<sup>th</sup>, Carpenter of the 4<sup>th</sup>, and Tarvin of the 2<sup>nd</sup>

A BILL TO BE ENTITLED

AN ACT

1 To provide a new charter for the Town of Cohutta; to provide for incorporation, boundaries,  
2 and powers of the town; to provide for the exercise of powers and limitations on powers; to  
3 provide for a town council of such town and the powers, duties, authority, prohibitions,  
4 election, terms, removal from office, method of filling vacancies, compensation, expenses,  
5 and qualifications; to provide for conflict of interest and holding other offices; to provide for  
6 inquiries and investigations; to provide for organization and meeting procedures; to provide  
7 for ordinances; to provide for eminent domain; to provide for codes; to provide for the office  
8 of mayor, the election of mayor, and certain duties and powers relative to the office of  
9 mayor; to provide for a vice mayor; to provide for administrative responsibilities; to provide  
10 for boards, commissions, and authorities; to provide for a town attorney, town clerk, and  
11 other personnel; to provide for the establishment of a municipal court and the judge or judges  
12 thereof; to provide for practices and procedures; to provide for taxation, permits, and fees;  
13 to provide for franchises, service charges, and assessments; to provide for a referendum to  
14 abolish the town's ad valorem tax; to provide for bonded and other indebtedness; to provide  
15 for accounting and budgeting; to provide for contracting and purchasing; to provide for sale  
16 of town property; to provide for bonds for officials; to provide for pending matters; to  
17 provide for definitions and construction; to provide for severability; to provide for related  
18 matters; to repeal a specific Act; to repeal conflicting laws; and for other purposes.

H. B. 623

- 1 -

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 ARTICLE I.  
21 INCORPORATION AND POWERS

22 SECTION 1.10.  
23 Incorporation.

24 This town and the inhabitants thereof, are reincorporated by the enactment of this charter and  
25 are hereby constituted and declared a municipality and a body politic and corporate under the  
26 name and style, Town of Cohutta, Georgia, and by that name shall have perpetual succession.

27 SECTION 1.11.  
28 Corporate boundaries.

29 (a) The boundaries of the town shall be those existing on the effective date of the adoption  
30 of this charter with such alterations as may be made from time to time in the manner  
31 provided by law. The boundaries of the town at all times shall be shown on a map, a  
32 written description, or any combination thereof, to be retained permanently in the office  
33 of the town clerk and to be designated, as the case may be: "Official Map (or Description)  
34 of the corporate limits of the Town of Cohutta, Georgia." Photographic, typed, or other  
35 copies of such map or description certified by the town clerk shall be admitted as evidence  
36 in all courts and shall have the same force and effect as with the original map or  
37 description.

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

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**SECTION 1.12.**

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## Powers and construction.

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

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

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**SECTION 1.13.**

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## Examples of power.

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The powers of the town shall include, but are not limited to:

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

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

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(3) Building regulation. To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, fire safety,

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64 electrical, gas, and heating and air conditioning codes; and to regulate all housing and  
65 building trades;

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

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

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

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

82 (8) Environmental protection. To protect and preserve the natural resources,  
83 environment, and vital areas of the town, the region, and the state through the  
84 preservation and improvement of air quality, the restoration and maintenance of water  
85 resources, the control of erosion and sedimentation, the management of storm water and  
86 establishment of a storm-water utility, the management of solid and hazardous waste, and  
87 other necessary actions for the protection of the environment;

88 (9) Fire regulations. To fix and establish fire limits and from time to time to extend,  
89 enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with

90 general law, relating to both fire prevention and detection and to fire fighting; and to  
91 prescribe penalties and punishment for violations thereof;

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

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

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

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

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

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

116 (16) Municipal agencies and delegation of power. To create, alter, or abolish  
117 departments, boards, offices, commissions, and agencies of the town, and to confer upon  
118 such agencies the necessary and appropriate authority for carrying out all the powers  
119 conferred upon or delegated to the same;

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

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

126 (19) Municipal property protection. To provide for the preservation and protection of  
127 property and equipment of the town and the administration and use of same by the public;  
128 and to prescribe penalties and punishment for violations thereof;

129 (20) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose  
130 of public utilities, including but not limited to a system of waterworks, sewers and drains,  
131 sewage disposal, storm-water management, gas works, electric light plants, cable  
132 television and other telecommunications, transportation facilities, public airports, and any  
133 other public utility; and to fix the taxes, charges, rates, fares, fees, assessments,  
134 regulations, and penalties, and to provide for the withdrawal of service for refusal or  
135 failure to pay the same;

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

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

140 (23) Planning and zoning. To provide comprehensive town planning for development  
141 by zoning; and to provide subdivision regulation and the like as the town council deems  
142 necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;

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

146 (25) Public improvements. To provide for the acquisition, construction, building,  
147 operation, and maintenance of public ways, parks, and playgrounds; recreational  
148 facilities; cemeteries; markets and market houses; public buildings; libraries; public  
149 housing; airports; hospitals; terminals; docks; parking facilities; or charitable, cultural,  
150 educational, recreational, conservation, sport, curative, corrective, detentional, penal, and  
151 medical institutions, agencies, and facilities; and to provide any other public  
152 improvements, inside or outside the corporate limits of the town; to regulate the use of  
153 public improvements; and for such purposes, property may be acquired by condemnation  
154 under Title 22 of the O.C.G.A., or such other applicable laws as are or may hereafter be  
155 enacted;

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

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

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

165 (29) Regulation of roadside areas. To prohibit or regulate and control the erection,  
166 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any  
167 and all other structures or obstructions upon or adjacent to the rights-of-way of streets and  
168 roads or within view thereof, within or abutting the corporate limits of the town; and to  
169 prescribe penalties and punishment for violation of such ordinances;

- 170 (30) Retirement. To provide and maintain a retirement plan and other employee benefit  
171 plans and programs for officers and employees of the town;
- 172 (31) Removal of public hazards. To provide for the destruction and removal of any  
173 building or other structure which is or may become dangerous or detrimental to the  
174 public;
- 175 (32) Roadways. To lay out, open, extend, widen, narrow, establish, or change the grade  
176 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise  
177 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and  
178 walkways within the corporate limits of the town; and to grant franchises and  
179 rights-of-way throughout the streets and roads, and over the bridges and viaducts for the  
180 use of public utilities; and to require real estate owners to repair and maintain in a safe  
181 condition the sidewalks adjoining their lots or lands, and to impose penalties for failure  
182 to do so;
- 183 (33) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,  
184 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant  
185 and sewerage system, and to levy on those to whom sewers and sewerage systems are  
186 made available a sewer service fee, charge, or sewer tax for the availability or use of the  
187 sewers; to provide for the manner and method of collecting such service charges and for  
188 enforcing payment of the same; and to charge, impose, and collect a sewer connection fee  
189 or fees to those connected with the system;
- 190 (34) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish,  
191 and refuse, and to regulate the collection and disposal of garbage, rubbish, and refuse by  
192 others; and to provide for the separate collection of glass, tin, aluminum, cardboard,  
193 paper, and other recyclable materials; and to provide for the sale of such items;
- 194 (35) Special areas of public regulation. To regulate or prohibit junk dealers and the  
195 manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and  
196 use of combustible, explosive, and inflammable materials, the use of lighting and heating



197 equipment, and any other business or situation which may be dangerous to persons or  
198 property; to regulate and control the conduct of peddlers and itinerant traders, theatrical  
199 performances, exhibitions, and shows of any kind, by taxation or otherwise; to license  
200 and tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult  
201 bookstores to certain areas;

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

204 (37) Taxes. To levy and provide for the assessment, valuation, revaluation, and  
205 collection of ad valorem taxes on all property subject to taxation and to levy and collect  
206 such other taxes as may be allowed now or in the future by law;

207 (38) Taxicabs. To the extent permitted by law, regulate and license vehicles operated  
208 for hire in the town; to limit the number of such vehicles; to require the operators thereof  
209 to be licensed; to require public liability insurance on such vehicles in the amounts to be  
210 prescribed by ordinance; and to regulate the parking of such vehicles;

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

212 (40) Other powers. To exercise and enjoy all other powers, functions, rights, privileges,  
213 and immunities necessary or desirable to promote or protect the safety, health, peace,  
214 security, good order, comfort, convenience, or general welfare of the town and its  
215 inhabitants; and to exercise all implied powers necessary or desirable to carry into  
216 execution all powers granted in this charter as fully and completely as if such powers  
217 were fully stated herein; and to exercise all powers now or in the future authorized to be  
218 exercised by other municipal governments under other laws of the State of Georgia; and  
219 no listing of particular powers in this charter shall be held to be exclusive of others, nor  
220 restrictive of general words and phrases granting powers, but shall be held to be in  
221 addition to such powers unless expressly prohibited to municipalities under the  
222 Constitution or applicable laws of the State of Georgia.

223 **SECTION 1.14.**

224 Exercise of powers.

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

229 **ARTICLE II.**230 **GOVERNMENT STRUCTURE**231 **SECTION 2.10.**

232 Town council.

233 The legislative authority of the government of the town, except as otherwise specifically  
234 provided in this charter, shall be vested in a town council to be composed of four  
235 councilmembers. The town council established shall, in all respects, be a successor to and  
236 a continuation of the governing authority under prior law. The councilmembers shall be  
237 elected by the voters of the town at large in the manner provided by general law and by this  
238 charter.

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**SECTION 2.11.**

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Town council terms and qualifications for office.

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The members of the town council shall serve for terms of four years and until their respective

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successors are elected and qualified. No person shall be eligible to serve as a councilmember

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unless that person shall have been a resident of the town for 12 months prior to the date of

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election of members of the council; each shall continue to reside therein during his or her

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period of service and to be registered and qualified to vote in municipal elections of the town.

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**SECTION 2.12.**

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Vacancy.

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(a) The office of mayor or councilmember shall become vacant upon the incumbent's

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death, resignation, forfeiture of office, or occurrence of any event specified by the

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Constitution of the State of Georgia, Title 45 of the O.C.G.A., or such other applicable laws

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as are or may hereafter be enacted.

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(b) A vacancy in the office of mayor or councilmembers shall be filled for the remainder

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of the unexpired term, if any, by appointment by the town council or those members

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remaining, as provided for in Section 5.14 of this charter and in accordance with Titles 21

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and 45 of the O.C.G.A., or other such laws as are or may hereafter be enacted.

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(c) This provision shall also apply to a temporary vacancy created by the suspension from

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office of the mayor or any councilmember.

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**SECTION 2.13.**

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Compensation and expenses.

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The mayor and councilmembers shall receive compensation and expenses for their services

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as provided by ordinance.

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**SECTION 2.14.**

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Conflicts of interest.

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

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

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

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

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

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281 (4) Accept any valuable gift, whether in the form of service, loan, thing, or promise,  
282 from any person, firm, or corporation which, to the official's knowledge, is interested,  
283 directly or indirectly, in any manner whatsoever in business dealings with the  
284 governmental body by which the official is engaged; provided, however, that an elected  
285 official who is a candidate for public office may accept campaign contributions and  
286 services in connection with any such campaign;

287 (5) Represent other private interests in any action or proceeding against the town or any  
288 portion of its government; or

289 (6) Vote or otherwise participate in the negotiation or in the making of any contract with  
290 any business or entity in which the official has a financial interest.

291 (c) Any elected official, appointed officer, or employee who shall have any financial  
292 interest, directly or indirectly, in any contract or matter pending before or within any  
293 department of the town shall disclose such interest to the town council. The mayor or any  
294 councilmember who has a financial interest in any matter pending before the town council  
295 shall disclose such interest, and such disclosure shall be entered on the records of the town  
296 council; and that official shall disqualify himself or herself from participating in any  
297 decision or vote relating thereto. Any elected official, appointed officer, or employee of  
298 any agency or political entity to which this charter applies who shall have any financial  
299 interest, directly or indirectly, in any contract or matter pending before or within such  
300 entity shall disclose such interest to the governing body of such agency or entity.

301 (d) No elected official, appointed officer, or employee of the town or any agency or entity  
302 to which this charter applies shall use property owned by such governmental entity for  
303 personal benefit or profit but shall use such property only in his or her capacity as an  
304 officer or employee of the town.

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

308 (f) Except where authorized by law, neither the mayor nor any councilmember shall hold  
309 any other elective or appointive office in the town or otherwise be employed by said  
310 government or any agency thereof during the term for which that official was elected.

311 (g) Political activities of certain officers and employees.

312 (1) No appointive officer of the town shall continue in such employment upon qualifying  
313 as a candidate for nomination or election to any public office.

314 (2) No employee of the town shall continue in such employment upon qualifying for or  
315 being elected to any public office in the town or any other public office which is  
316 inconsistent, incompatible, or in conflict with the duties of the town employee.

317 (3) Such determination shall be made by the mayor and council either immediately upon  
318 election or at any time such conflict may arise.

319 (h) Penalties for violation.

320 (1) Any town officer or employee who knowingly conceals such financial interest or  
321 knowingly violates any of the requirements of this section shall be guilty of malfeasance  
322 in office or position and shall be deemed to have forfeited his or her office or position.

323 (2) Any officer or employee of the town who shall forfeit an office or position as  
324 described in paragraph (1) of this subsection, shall be ineligible for appointment or  
325 election to or employment in a position in the town government for a period of three  
326 years thereafter.

327 **SECTION 2.15.**

328 Inquiries and investigations.

329 Following the adoption of an authorizing resolution, the town council may make inquiries  
330 and investigations into the affairs of the town and the conduct of any department, office, or  
331 agency thereof, and for this purpose may subpoena witnesses, administer oaths, take  
332 testimony, and require the production of evidence. Any person who fails or refuses to obey

333 a lawful order issued in the exercise of these powers by the town council shall be punished  
334 as provided by ordinance.

335 **SECTION 2.16.**

336 General power and authority of the town council.

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

339 (b) In addition to all other powers conferred upon it by law, the council shall have the  
340 authority to adopt and provide for the execution of such ordinances, resolutions, rules, and  
341 regulations, not inconsistent with this charter and the Constitution and the laws of the State  
342 of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order,  
343 protection of life and property, health, welfare, sanitation, comfort, convenience,  
344 prosperity, or well-being of the inhabitants of the town and may enforce such ordinances  
345 by imposing penalties for violation of their requirements.

346 **SECTION 2.17.**

347 Eminent domain.

348 The town council is hereby empowered to acquire, construct, operate, and maintain public  
349 ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries,  
350 sewers, drains, sewage treatment, waterworks, electrical systems, gas systems, airports,  
351 hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional,  
352 penal, and medical institutions, agencies, and facilities, and any other public improvements  
353 in the town, and to regulate the use thereof; and for such purposes, property may be  
354 condemned under procedures established under general law applicable now or as provided  
355 in the future.

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**SECTION 2.18.**

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## Organizational meetings.

358 The town council shall hold an organizational meeting on each first Tuesday of January. The  
359 meeting shall be called to order by the mayor or town clerk, and the oath of office shall be  
360 administered to the newly elected members by a judicial officer authorized to administer  
361 oaths and, to the extent that it comports with federal and state law, the oath shall be as  
362 follows:

363 "I do solemnly (swear)(affirm) that I will faithfully perform the duties of  
364 (mayor)(councilmember) of the town and that I will support and defend the charter thereof,  
365 as well as the Constitution and laws of the State of Georgia and of the United States of  
366 America. I am not the holder of any unaccounted for public money due this state or any  
367 political subdivision or authority thereof. I am not the holder of any office of trust under  
368 the government of the United States, any other state, or any foreign state which I by the  
369 laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold  
370 said office according to the Constitution and laws of Georgia. I have been a resident of the  
371 Town of Cohutta for the time required by the Constitution and laws of this state and by the  
372 municipal charter. I will perform the duties of my office in the best interest of the Town  
373 of Cohutta to the best of my ability without fear, favor, affection, reward, or expectation  
374 thereof."

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**SECTION 2.19.**

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## Regular and special meetings.

377 (a) The town council shall hold regular meetings at such times and places as shall be  
378 prescribed by ordinance.



379 (b) Special meetings of the town council may be held on call of the mayor or three  
380 members of the town council. Notice of such special meetings shall be served on all other  
381 members personally, by email, and or by telephone personally, at least 48 hours in advance  
382 of the meeting. Such notice to councilmembers shall not be required if the mayor and all  
383 councilmembers are present when the special meeting is called. Such notice of any special  
384 meeting may be waived by a councilmember in writing before or after such a meeting, and  
385 attendance at the meeting shall also constitute a waiver of notice on any business transacted  
386 in such councilmember's absence. Only the business stated in the call may be transacted  
387 at the special meeting.

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

392 **SECTION 2.20.**

393 Rules of procedure.

394 (a) The town council shall adopt its rules of procedure and order of business consistent  
395 with the provisions of this charter and shall provide for keeping a journal of its  
396 proceedings, which shall be a public record.

397 (b) All committees and committee chairs and officers of the town council shall be  
398 appointed by the mayor and shall serve at the pleasure of the mayor. The mayor shall have  
399 the power to appoint new members to any committee at any time.

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**SECTION 2.21.**

Quorum and voting.

- 402 (a) Two councilmembers and the mayor shall constitute a quorum and shall be authorized  
403 to transact business of the town council. The mayor shall preside at meetings of the  
404 council, shall have a vote only where it is the third vote for or against a matter, and shall  
405 have no veto power. Voting on the adoption of ordinances shall be by voice vote and the  
406 vote shall be recorded in the journal, but any member of the town council shall have the  
407 right to request a roll call vote and such vote shall be recorded in the journal. Except as  
408 otherwise provided in this charter, the affirmative vote of two councilmembers and the  
409 mayor or the affirmative vote of three councilmembers shall be required for the adoption  
410 of any ordinance, resolution, or motion.  
411 (b) An abstention noted on the record shall be counted as a negative vote.

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**SECTION 2.22.**

Ordinance form and procedures.

- 414 (a) Every proposed ordinance should be introduced in writing and in the form required for  
415 final adoption. No ordinance shall contain a subject which is not expressed in its title.  
416 (b) An ordinance may be introduced by any councilmember and be read at a regular or  
417 special meeting of the town council. Ordinances shall be considered and adopted or  
418 rejected by the town council in accordance with the rules which it shall establish, provided,  
419 however, an ordinance shall not be adopted the same day it is introduced, except for  
420 emergency ordinances, as provided in Section 2.24. Upon introduction of any ordinance,  
421 the clerk shall as soon as possible distribute a copy to the mayor and to each  
422 councilmember and shall file a reasonable number of copies in the office of the clerk and  
423 at such other public places as the town council may designate.

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**SECTION 2.23.**

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Action requiring an ordinance.

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Acts of the town council which have the force and effect of law shall be enacted by

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ordinance.

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**SECTION 2.24.**

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Emergencies.

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(a) To meet a public emergency affecting life, health, property, or public peace, the town

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council may convene on call of the mayor or two councilmembers and promptly adopt an

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emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a

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franchise; regulate the rate charged by any public utility for its services; or authorize the

434

borrowing of money except for loans to be repaid within 30 days. An emergency

435

ordinance shall be introduced in the form prescribed for ordinances generally, except that

436

it shall be plainly designated as an emergency ordinance and shall contain, after the

437

enacting clause, a declaration stating that an emergency exists, and describing the

438

emergency in clear and specific terms. An emergency ordinance may be adopted, with or

439

without amendment, or rejected at the meeting at which it is introduced, but the affirmative

440

vote of at least two councilmembers shall be required for adoption. It shall become

441

effective upon adoption or at such later time as it may specify. Every emergency ordinance

442

shall automatically stand repealed 30 days following the date upon which it was adopted,

443

but this shall not prevent reenactment of the ordinance in the manner specified in this

444

section if the emergency still exists. An emergency ordinance may also be repealed by

445

adoption of a repealing ordinance in the same manner specified in this section for adoption

446

of emergency ordinances.

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

451 **SECTION 2.25.**

452 Codes of technical regulations.

453 (a) The town council may adopt any standard code of technical regulations by reference  
454 thereto in an adopting ordinance. The procedure and requirements governing such  
455 adopting ordinance shall be as prescribed for ordinances generally except that:

456 (1) The requirements of subsection (b) of Section 2.22 for distribution and filing of  
457 copies of the ordinance shall be construed to include copies of any code of technical  
458 regulations, as well as the adopting ordinance; and

459 (2) A copy of each adopted code of technical regulations, as well as the adopting  
460 ordinance, shall be authenticated and recorded by the town clerk pursuant to Section 2.26.

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

463 **SECTION 2.26.**

464 Signing, authenticating, recording, codification, and printing of the code.

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

467 (b) The town council shall provide for the preparation of a general codification of all the  
468 ordinances of the town having the force and effect of law. The general codification shall  
469 be adopted by the town council by ordinance and shall be published promptly, together

470 with all amendments thereto, and such codes of technical regulations and other rules and  
471 regulations as the town council may specify. This compilation shall be known and cited  
472 officially as 'The Code of the Town of Cohutta, Georgia.' Copies of the code shall be  
473 furnished to all officers, departments, and agencies of the town, and made available for  
474 purchase by the public at a reasonable price as fixed by the town council.

475 (c) The town council shall cause each ordinance and each amendment to this charter to be  
476 printed promptly following its adoption, and the printed ordinances and charter  
477 amendments shall be made available for purchase by the public at reasonable prices to be  
478 fixed by the town council. Following publication of the first code under this charter and  
479 at all times thereafter, the ordinances and charter amendments shall be printed in  
480 substantially the same style as the code currently in effect and shall be suitable in form for  
481 incorporation therein. The town council shall make such further arrangements as deemed  
482 desirable with reproduction and distribution of any current changes in or additions to codes  
483 of technical regulations and other rules and regulations included in the code.

484 **SECTION 2.27.**

485 **Mayor.**

486 The mayor shall be elected and serve for a term of four years and until a successor is elected  
487 and qualified. The mayor shall be a qualified elector of the town and shall have been a  
488 resident of the town for 12 months preceding the election. The mayor shall continue to  
489 reside in the town during the period of service. The mayor shall forfeit the office on the  
490 same grounds and under the same procedure as for councilmembers. The compensation of  
491 the mayor shall be established in the same manner as for councilmembers.

492

**SECTION 2.28.**

493

Chief executive officer.

494

495

496

The mayor shall be the chief executive of the town. The mayor shall possess all of the executive and administrative power granted to the town under the Constitution and laws of the State of Georgia and all the executive and administrative powers contained in this charter.

497

**SECTION 2.29.**

498

Powers and duties of mayor.

499

As the chief executive of the town, the mayor shall:

500

(1) See that all laws and ordinances of the town are faithfully executed;

501

(2) Appoint and remove all officers, department heads, and employees of the town, except as otherwise provided in this charter;

502

503

(3) Exercise supervision over all executive and administrative work of the town and provide for the coordination of administrative activities;

504

505

(4) Prepare and submit to the town council a recommended operating budget and capital budget;

506

507

(5) Submit to the town council at least once a year a statement covering the financial conditions of the town and, from time to time, such other information as the town council may request;

508

509

510

(6) Recommend to the town council such measures relative to the affairs of the town, improvement of the government, and promotion of the welfare of its inhabitants as the mayor may deem expedient;

511

512

513

(7) Call special meetings of the town council as provided for in Section 2.19;

514

(8) Approve or disapprove the form of ordinances as provided in Section 2.30;

515

(9) Provide for an annual audit of all accounts of the town;

- 516 (10) Require any department or agency of the town to submit written reports whenever  
517 the mayor deems it expedient; and  
518 (11) Perform such other duties as may be required by law, this charter, or by ordinance.

519 **SECTION 2.30.**

520 Submission of ordinances to the mayor.

521 (a) Every ordinance adopted by the town council shall be presented promptly by the town  
522 clerk to the mayor who shall ensure that the form of the ordinance is appropriate prior to  
523 publication.

524 (b) The mayor, within seven calendar days of receipt of a resolution or ordinance, shall  
525 return it to the town clerk, with or without the mayor's approval or with his veto. If the  
526 ordinance has been approved by the mayor, it shall become law upon its return to the town  
527 clerk; if the resolution or ordinance is neither approved nor disapproved, it shall become  
528 law at twelve o'clock noon on the twelfth calendar day after its adoption by the town  
529 council; if the resolution or ordinance is vetoed, the mayor shall submit to the town council  
530 through the town clerk a written statement explaining the reasons for the veto. The town  
531 clerk shall record upon the resolution or ordinance the date of its delivery to and receipt  
532 from the mayor.

533 **SECTION 2.31.**

534 Vice mayor.

535 By a majority vote, the town council shall elect a councilmember to serve as vice mayor.  
536 The vice mayor, shall preside at all meetings of the town council and shall assume the duties  
537 and powers of the mayor upon the mayor's physical or mental disability, suspension from  
538 office, or absence. The town council by a majority vote shall elect a new presiding officer

539 from among its members for any period in which the vice mayor is disabled, absent, or acting  
540 as mayor. Any such absence or disability shall be declared by majority vote of all  
541 councilmembers. When serving as mayor, the vice mayor shall not vote as a member of the  
542 council, but shall have the powers granted the mayor to vote.

543 **ARTICLE III.**  
544 **ADMINISTRATIVE AFFAIRS**

545 **SECTION 3.10.**  
546 **Administrative and service departments.**

547 (a) Except as otherwise provided in this charter, the town council, by ordinance, after  
548 receiving the written recommendation of the mayor, shall prescribe the functions or duties  
549 and establish, abolish, alter, consolidate, or leave vacant all nonelective offices, positions  
550 of employment, departments, and agencies of the town, as necessary for the proper  
551 administration of the affairs and government of the town.

552 (b) Except as otherwise provided by this charter or by law, the directors of departments  
553 and other appointed officers of the town shall be appointed solely on the basis of their  
554 respective administrative and professional qualifications. Except as otherwise provided by  
555 this charter, all directors, officers, and employees of the town shall be appointed and  
556 removed by and shall be under the direction and control of the mayor.

557 (c) All appointive officers and directors of departments shall receive such compensation  
558 as prescribed by ordinance or resolution.

559 (d) There shall be a director of each department or agency who shall be its principal  
560 officer. Each director shall, subject to the direction and supervision of the mayor, be  
561 responsible for the administration and direction of the affairs and operations of that  
562 director's department or agency.



563 (e) All appointive officers and directors shall be employees at-will and subject to removal  
564 or suspension at any time by the mayor, unless otherwise provided by law or ordinance.

565 **SECTION 3.11.**

566 Boards, commissions, and authorities.

567 (a) The town council shall create, by ordinance, such boards, commissions, and authorities  
568 to fulfill any investigative, quasi-judicial or quasi-legislative function the town council  
569 deems necessary, and shall, by ordinance, establish the composition, period of existence,  
570 duties, and powers thereof.

571 (b) All members of boards, commissions, and authorities of the town shall be appointed  
572 by the town council for such terms of office and in such manner as shall be provided by  
573 ordinance, except where other appointing authority, terms of office, or manner of  
574 appointment is prescribed by this charter or by law.

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

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

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

582 (f) No member of a board, commission, or authority shall assume office until that person  
583 has executed and filed with the town clerk an oath obligating himself or herself to faithfully  
584 and impartially perform the duties of that member's office, such oath to be prescribed by  
585 ordinance and administered by the mayor.

586 (g) All board, commission, and authority members shall serve at-will and may be removed  
587 at any time by a vote of three members of the town council unless otherwise provided by  
588 law.

589 (h) Except as otherwise provided by this charter or by law, each board, commission, or  
590 authority of the town shall elect one of its members as chair and one member as vice-chair,  
591 and may elect as its secretary one of its own members or may appoint as secretary an  
592 employee of the town.

593 **SECTION 3.12.**

594 Town attorney.

595 (a) The mayor shall appoint a town attorney, together with such assistant town attorneys  
596 as may be authorized, and shall provide for the payment of such attorney or attorneys for  
597 services rendered to the town. The town attorney shall be responsible for providing for the  
598 representation and defense of the town in all litigation in which the town is a party; may  
599 be the prosecuting officer in the municipal court; shall attend the meetings of the council  
600 as directed; shall advise the town council, mayor, and other officers and employees of the  
601 town concerning legal aspects of the town's affairs; and shall perform such other duties as  
602 may be required by virtue of the person's position as town attorney.

603 (b) The town attorney is not a public official of the town and does not take an oath of  
604 office. The town attorney shall at all times be an independent contractor. A law firm, rather  
605 than an individual, may be designated as the town attorney.

606 **SECTION 3.13.**

607 Town clerk.

608 The mayor shall appoint a town clerk who shall not be a councilmember. The town clerk  
609 shall be custodian of the official town seal and town records; maintain town council records  
610 required by this charter; and perform such other duties as may be required by the town  
611 council.

612 **SECTION 3.15.**

613 Personnel policies.

614 All employees of the town shall be appointed, promoted, demoted, transferred, suspended,  
615 and removed by the mayor. During a suspension, an employee's salary may be reduced or  
616 eliminated, as determined by the mayor. Before suspending, an employee for more than 30  
617 days or removing him or her, the mayor shall serve the employee with a written notice of  
618 intention to suspend or remove the employee, containing a clear statement of the grounds for  
619 such proposed action, as well as notification that the employee may appeal to the personnel  
620 board, or the town council acting as the personnel board, by filing, within ten days, with the  
621 town clerk written notice of his or her intention to do so. The decisions of the town council  
622 acting as personnel board or of the personnel board shall be final.

623 **SECTION 3.16.**

624 Personnel board.

625 (a) In the event that a personnel board has been established and is in effect, such board  
626 shall be composed of three members appointed by the town council for three-year terms,  
627 provided that of the first appointees, one shall be for a term of one year and one for a term  
628 of two years.

629 (b) The personnel board shall elect a chairperson from its membership and shall adopt  
630 rules governing conduct of its business. The town council shall act as a personnel board  
631 in the event no current appointments for that group are in effect.

632 **ARTICLE IV.**  
633 **JUDICIAL BRANCH**

634 **SECTION 4.10.**  
635 **Municipal court creation.**

636 There shall be a court to be known as the Municipal Court of the Town of Cohutta.

637 **SECTION 4.11.**  
638 **Chief judge and associate judge.**

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

641 (b) No person shall be qualified or eligible to serve as a judge on the municipal court  
642 unless that person shall have attained the age of 21 years, shall be a member of the State  
643 Bar of Georgia, and shall possess all qualifications required by law. All judges shall be  
644 appointed to terms as provided by law by the town council and shall serve until a successor  
645 is appointed and qualified.

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

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

648 (e) Before assuming office, each judge shall take an oath, given by the mayor, that the  
649 judge will honestly and faithfully discharge the duties of the office to the best of his or her

650 ability and without fear, favor or partiality. The oath shall be entered upon the minutes of  
651 the town council.

652 **SECTION 4.12.**

653 Convening.

654 The municipal court shall be convened at regular intervals to accommodate case loads.

655 **SECTION 4.13.**

656 Jurisdiction and powers.

657 (a) The municipal court shall have jurisdiction and authority to try and punish violations  
658 of this charter, all town ordinances, and such other violations as provided by law.

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

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

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

668 (e) The municipal court shall have authority to establish bail and recognizances to ensure  
669 the presence of those charged with violations before said court and shall have discretionary  
670 authority to accept cash or personal or real property as surety for the appearance of persons  
671 charged with violations. Whenever any person shall give bail for that person's appearance  
672 and shall fail to appear at the time fixed for trial, the bond shall be forfeited by the judge

673 presiding at such time and an execution issued thereon by serving the defendant and the  
674 defendant's sureties with a rule nisi, at least two days before a hearing on the rule nisi. In  
675 the event that cash or property is accepted in lieu of bond for security for the appearance  
676 of a defendant at trial, and if such defendant fails to appear at the time and place fixed for  
677 trial, the cash so deposited shall be on order of the judge declared forfeited to the town, or  
678 the property so deposited shall have a lien against it for the value forfeited which lien shall  
679 be enforceable in the same manner and to the same extent as a lien for town property taxes.

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

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

686 (h) Each judge of the municipal court shall be authorized to issue warrants for the arrest  
687 of persons charged with offenses against any ordinance of the town, and each judge of the  
688 municipal court shall have the same authority as a magistrate of the state to issue warrants  
689 for offenses against state laws committed within the town.

690 **SECTION 4.14.**

691 Certiorari.

692 The right of certiorari from the decision and judgment of the municipal court shall exist in  
693 all criminal cases and ordinance violation cases, and such certiorari shall be obtained under  
694 the sanction of a judge of the Superior Court of Whitfield County under the laws of the State  
695 of Georgia regulating the granting and issuance of writs of certiorari.

696 **SECTION 4.15.**

697 Rules of court.

698 With the approval of the town council, the judge shall have full power and authority to make  
699 reasonable rules and regulations necessary and proper to secure the efficient and successful  
700 administration of the municipal court; provided, however, that the town council may adopt  
701 in part or in toto the rules and regulations applicable to municipal courts. The rules and  
702 regulations made or adopted shall be filed with the town clerk, shall be available for public  
703 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court  
704 proceedings at least 48 hours prior to said proceedings.

705 **ARTICLE V.**

706 **ELECTIONS AND REMOVAL**

707 **SECTION 5.10.**

708 Applicability of general law.

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

711 **SECTION 5.11.**

712 Election of the town council and mayor.

713 (a) There shall be a municipal general election biennially in the odd years on the Tuesday  
714 next following the first Monday in November.

- 715 (b) There shall be elected the mayor and two councilmembers at one election and at every  
716 other regular election thereafter. The remaining town council seats shall be filled at the  
717 election alternating with the first election so that a continuing body is created.
- 718 (c) The mayor and councilmembers shall serve four-year terms of office.

719 **SECTION 5.12.**

720 Nonpartisan elections.

- 721 Political parties shall not conduct primaries for town offices and all names of candidates for  
722 town offices shall be listed without party designations.

723 **SECTION 5.13.**

724 Election by plurality.

- 725 The person receiving a plurality of the votes cast for any town office shall be elected.

726 **SECTION 5.14.**

727 Special elections and vacancies.

- 728 In the event that the office of mayor or councilmember shall become vacant as provided in  
729 Section 2.12 of this charter, the town council or those remaining shall appoint a qualified  
730 person to fill such a vacancy for the remainder of the unexpired term. Should more than one  
731 vacancy occur with more than 12 months of the expiration of the terms, the council shall call  
732 a special election in accordance with Chapter 2 of Title 21 of the O.C.G.A., the "Georgia  
733 Election Code," as now or hereafter amended.



734 **SECTION 5.15.**

735 Other provisions.

736 Except as otherwise provided by this charter, the town council shall, by ordinance, prescribe  
737 such rules and regulations it deems appropriate to fulfill any options and duties under the  
738 Georgia Election Code.

739 **SECTION 5.16.**

740 Removal of officers.

741 (a) The mayor, councilmembers, or other appointed officers provided for in this charter  
742 shall be removed from office for any one or more of the causes provided in Title 45 of the  
743 O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

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

746 (1) Following a hearing at which an impartial panel shall render a decision. In the event  
747 an elected officer is sought to be removed by the action of the town council, such officer  
748 shall be entitled to a written notice specifying the ground or grounds for removal and to  
749 a public hearing which shall be held not less than ten days after the service of such  
750 written notice. The town council shall provide, by ordinance, for the manner in which  
751 such hearings shall be held. Any elected officer sought to be removed from office as  
752 herein provided shall have the right of appeal from the decision of the town council to the  
753 Superior Court of Whitfield County. Such appeal shall be governed by the same rules as  
754 govern appeals to the superior court from the probate court; or

755 (2) By an order of the Superior Court of Whitfield County following a hearing on a  
756 complaint seeking such removal brought by any resident of the town.

757

## ARTICLE VI.

758

## FINANCE

759

**SECTION 6.10.**

760

Property tax and referendum.

761

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

767

(b) Upon a petition of 40 registered voters delivered to the town clerk, the municipal election superintendent of the town shall call and conduct an election for the purpose of submitting to the electors of the town a question as to whether the town's ad valorem tax shall be abolished. The municipal election superintendent shall conduct that election in concurrence with a regular general municipal election and shall issue the call and conduct that election as provided by general law. The municipal election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Whitfield County. All persons desiring to vote for approval of the abolition of the ad valorem tax shall vote "Yes," and all persons desiring to vote for rejection of such abolition shall vote "No." If more than one-half of the votes cast on such question are for approval of abolishing the ad valorem tax, the town's ad valorem tax shall be terminated as of January 1 of the year immediately following the election. The expense of such election shall be borne by the town.

780

781 **SECTION 6.11.**

782 Millage rate, due dates, and methods of payment.

783 Provided that the ad valorem tax has not been abolished pursuant to subsection (b) of  
784 Section 6.10, the town council, by ordinance, shall establish a millage rate for the town ad  
785 valorem tax, a due date, and the time period within which such taxes must be paid. The town  
786 council, by ordinance, may provide for the payment of these taxes by two installments or in  
787 one lump sum, as well as authorize the voluntary payment of taxes prior to the time when  
788 due.

789 **SECTION 6.12.**

790 Occupation and business taxes.

791 The town council, by ordinance, shall have the power to levy such occupation or business  
792 taxes as are not denied by law. The town council may classify businesses, occupations, or  
793 professions for the purpose of such taxation in any way which may be lawful and may  
794 compel the payment of such taxes as provided in Section 6.18.

795 **SECTION 6.13.**

796 Regulatory fees and permits.

797 The town council, by ordinance, shall have the power to require businesses or practitioners  
798 doing business within the town to obtain a permit for such activity from the town and pay a  
799 reasonable regulatory fee for such permit as provided by general law. Such fees shall reflect  
800 the total cost to the town of regulating the activity, and if unpaid, shall be collected as  
801 provided in Section 6.18.

802 **SECTION 6.14.**

803 Franchises.

804 (a) The town council shall have the power to grant franchises for the use of the town's  
805 streets and alleys for the purposes of railroads, street railways, telephone companies,  
806 electric companies, electric membership corporations, cable television and other  
807 telecommunications companies, gas companies, transportation companies, and other  
808 similar organizations. The town council shall determine the duration, terms, whether the  
809 same shall be exclusive or nonexclusive, and the consideration for such franchises;  
810 provided, however, that no franchise shall be granted for a period of more than 35 years,  
811 and no franchise shall be granted unless the town receives just and adequate compensation  
812 therefor. The town council shall provide for the registration of all franchises with the town  
813 clerk in a registration book kept by the clerk. The town council may provide, by ordinance,  
814 for the registration within a reasonable time of all franchises previously granted.

815 (b) If no franchise agreement is in effect, the town council has the authority to impose a  
816 tax on gross receipts for the use of the town's streets and alleys for the purposes of  
817 railroads, street railways, telephone companies, electric companies, electric membership  
818 corporations, cable television and other telecommunications companies, gas companies,  
819 transportation companies and other similar organizations.

820 **SECTION 6.15.**

821 Service charges.

822 The town council, by ordinance, shall have the power to assess and collect fees, charges,  
823 assessments, and tolls for sewers, sanitary and health services, or any other services provided  
824 or made available within and without the corporate limits of the town. If unpaid, such  
825 charges shall be collected as provided in Section 6.18.

826 **SECTION 6.16.**

827 Special assessments.

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

832 **SECTION 6.17.**

833 Other taxes and fees.

834 The town shall be empowered to levy any other tax or fee allowed now or hereafter by law,  
835 and the specific mention of any right, power, or authority in this article shall not be construed  
836 as limiting in any way the general powers of the town to govern its local affairs.

837 **SECTION 6.18.**

838 Collection of delinquent taxes and fees.

839 The town council, by ordinance, may provide generally for the collection of delinquent taxes,  
840 fees, or other revenue due the town under Sections 6.10 through 6.17 by whatever reasonable  
841 means as are not precluded by law. This shall include providing for the dates when the taxes  
842 or fees are due; late penalties or interest; issuance and execution of fi.fa.'s; creation and  
843 priority of liens; making delinquent taxes and fees personal debts of the persons required to  
844 pay the taxes or fees imposed; revoking town permits for failure to pay any town taxes or  
845 fees; and providing for the assignment or transfer of tax executions.

846 **SECTION 6.19.**

847 General obligation bonds.

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

852 **SECTION 6.20.**

853 Revenue bonds.

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

857 **SECTION 6.21.**

858 Short-term loans.

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

861 **SECTION 6.22.**

862 Lease-purchase contracts.

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

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

870 **SECTION 6.23.**

871 Fiscal year and financial reports.

872 The town council shall set the fiscal year by ordinance. This fiscal year shall constitute the  
873 budget year and the year for financial accounting and reporting of each and every office,  
874 department, agency, and activity of the town government unless otherwise provided by state  
875 or federal law. At the end of each month, the mayor shall submit a detailed budget report to  
876 the council, showing estimated and actual receipts and expenditures or encumbrances for that  
877 month and the fiscal year to the end of that month, as well as the amount encumbered or  
878 expended in excess of any of the itemized estimates of expenditures supporting the  
879 appropriation.

880 **SECTION 6.24.**

881 Preparation of budgets.

882 The town council shall provide an ordinance on the procedures and requirements for the  
883 preparation and execution of an annual operating budget, a capital improvement plan, and  
884 a capital budget, including requirements as to the scope, content, and form of such budgets  
885 and plans.

886

**SECTION 6.25.**

887

Submission of operating budget to town council.

888 On or before a date fixed by the town council but not later than 30 days prior to the  
889 beginning of each fiscal year, the mayor shall submit to the town council a proposed  
890 operating budget for the ensuing fiscal year. The budget shall be accompanied by a message  
891 from the mayor containing a statement of the general fiscal policies of the town, the  
892 important features of the budget, explanations of major changes recommended for the next  
893 fiscal year, a general summary of the budget, and such other pertinent comments and  
894 information. The operating budget and the capital budget hereinafter provided for, the  
895 budget message, and all supporting documents shall be filed in the office of the town clerk  
896 and shall be open to public inspection.

897

**SECTION 6.26.**

898

Action by town council on budget.

899 (a) The town council may amend the operating budget proposed by the mayor; except that  
900 the budget as finally amended and adopted must provide for all expenditures required by  
901 state law or by other provisions of this charter and for all debt service requirements for the  
902 ensuing fiscal year, and the total appropriations from any fund shall not exceed the  
903 estimated fund balance, reserves, and revenues.

904 (b) The town council, by ordinance, shall adopt the final operating budget for the ensuing  
905 fiscal year not later than December 31 of each year. If the town council fails to adopt the  
906 budget by this date, the amounts appropriated for operation for the current fiscal year shall  
907 be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items  
908 prorated accordingly until such time as the town council adopts a budget for the ensuing  
909 fiscal year. Adoption of the budget shall take the form of an appropriations ordinance,



910 setting out the estimated revenues in detail by sources and making appropriations according  
911 to fund and by organizational unit, purpose, or activity as set out in the budget preparation  
912 ordinance adopted pursuant to Section 6.24.

913 (c) The amount set out in the adopted operating budget for each organizational unit shall  
914 constitute the annual appropriation for such, and no expenditure shall be made or  
915 encumbrance created in excess of the otherwise unencumbered balance of the  
916 appropriations or allotment thereof, to which it is chargeable.

917 **SECTION 6.27.**

918 Tax levies.

919 The town council shall levy by ordinance such taxes as are necessary. The taxes and tax  
920 rates set by such ordinances shall be such that reasonable estimates of revenues from such  
921 levy shall at least be sufficient, together with other anticipated revenues, fund balances, and  
922 applicable reserves, to equal the total amount appropriated for each of the several funds set  
923 forth in the annual operating budget for defraying the expenses of the general government  
924 of the town.

925 **SECTION 6.28.**

926 Changes in Appropriations.

927 The town council, by ordinance, may make changes in the appropriations contained in the  
928 current operating budget, at any regular, special, or emergency meeting called for such  
929 purpose, but any additional appropriations may be made only from an existing unexpended  
930 surplus.

931 **SECTION 6.29.**

## 932 Capital Budget.

933 (a) On or before the date fixed by the town council but no later than 30 days prior to the  
934 beginning of each fiscal year, the mayor shall submit to the town council a proposed capital  
935 improvements plan with a recommended capital budget containing the means of financing  
936 the improvements proposed for the ensuing fiscal year. The town council shall have power  
937 to accept, with or without amendments, or reject the proposed plan and proposed budget.  
938 The town council shall not authorize an expenditure for the construction of any building,  
939 structure, work, or improvement, unless the appropriations for such project are included  
940 in the capital budget, except to meet a public emergency as provided in Section 2.24.

941 (b) The town council shall adopt, by ordinance, the final capital budget for the ensuing  
942 fiscal year not later than December 31 of each year. No appropriation provided for in a  
943 prior capital budget shall lapse until the purpose for which the appropriation was made  
944 shall have been accomplished or abandoned; provided, however, the mayor may submit  
945 amendments to the capital budget at any time during the fiscal year, accompanied by  
946 recommendations. Any such amendments to the capital budget shall become effective only  
947 upon adoption by ordinance.

948 **SECTION 6.30.**

## 949 Independent audit or financial review.

950 There shall be an annual independent audit or financial review of all town accounts, funds,  
951 and financial transactions by a certified public accountant selected by the town council. The  
952 audit shall be conducted according to generally accepted auditing principles. Any audit of  
953 any funds by the state or federal governments may be accepted as satisfying the requirements

954 of this charter. Copies of annual audit or financial review reports shall be available at printing  
955 costs to the public.

956 **SECTION 6.31.**

957 Contracting procedures.

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

959 (1) It is in writing;

960 (2) It is drawn by or submitted to and reviewed by the town attorney and, as a matter of  
961 course, is signed by the town attorney to indicate such drafting or review; and

962 (3) It is made or authorized by the town council and such approval is entered in the town  
963 council journal of proceedings pursuant to Section 2.21.

964 **SECTION 6.32.**

965 Sale and lease of town property.

966 (a) The town council may sell and convey, or lease any real or personal property owned  
967 or held by the town for governmental or other purposes as now or hereafter provided by  
968 law. The town must lease and sell property in such a way to maximize the long-term land  
969 use plan of the town.

970 (b) The town council may quitclaim any rights it may have in property not needed for  
971 public purposes upon report by the mayor and adoption of a resolution, both finding that  
972 the property is not needed for public or other purposes and that the interest of the town has  
973 no readily ascertainable monetary value.

974 (c) Whenever in opening, extending, or widening any street, avenue, alley, or public place  
975 of the town, a small parcel or tract of land is cut-off or separated by such work from a  
976 larger tract or boundary of land owned by the town, the town council may authorize the

977 mayor to sell and convey said cut-off or separated parcel or tract of land to an abutting or  
978 adjoining property owner or owners where such sale and conveyance facilitates the  
979 enjoyment of the highest and best use of the abutting owner's property. Included in the  
980 sales contract shall be a provision for the rights-of-way of said street, avenue, alley, or  
981 public place. Each abutting property owner shall be notified of the availability of the  
982 property and given the opportunity to purchase said property under such terms and  
983 conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so  
984 executed and delivered shall convey all title and interest the town has in such property,  
985 notwithstanding the fact that no public sale after advertisement was or is hereafter made.

986 **ARTICLE VII.**

987 **GENERAL PROVISIONS**

988 **SECTION 7.10.**

989 **Bonds for officials.**

990 The officers and employees of the town, both elective and appointive, shall execute such  
991 surety or fidelity bonds in such amounts and upon such terms and conditions as the town  
992 council shall, from time to time, require by ordinance or as may be provided by law.

993 **SECTION 7.11.**

994 **Prior ordinances.**

995 All ordinances, resolutions, rules, and regulations now in force in the town not inconsistent  
996 with this charter are hereby declared valid and of full effect and force until amended or  
997 repealed by the town council.

998

**SECTION 7.12.**

999

Existing personnel and officers.

1000 Except as specifically provided otherwise by this charter, all personnel and officers of the  
1001 town and their rights, privileges, and powers shall continue beyond the time this charter takes  
1002 effect for a period of 45 days before or during which the existing town council shall pass a  
1003 transition ordinance detailing the changes in personnel and appointive officers required or  
1004 desired and arranging such titles, rights, privileges, and powers as may be required or desired  
1005 to allow a reasonable transition.

1006

**SECTION 7.13.**

1007

Pending matters.

1008 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,  
1009 contracts, and legal or administrative proceedings shall continue and any such ongoing work  
1010 or cases shall be completed by such town agencies, personnel, or offices as may be provided  
1011 by the town council.

1012

**SECTION 7.14.**

1013

Construction.

1014 (a) Section captions in this charter are informative only and are not to be considered as a  
1015 part thereof.

1016 (b) The word "shall" is mandatory and the word "may" is permissive.

1017 (c) The singular shall include the plural, the masculine shall include the feminine, and vice  
1018 versa.

1019 **SECTION 7.15.**

1020 Severability.

1021 If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be  
1022 held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect  
1023 or impair other parts of this charter unless it clearly appears that such other parts are wholly  
1024 and necessarily dependent upon the part held to be invalid or unconstitutional, it being the  
1025 legislative intent in enacting this charter that each article, section, subsection, paragraph,  
1026 sentence, or part thereof be enacted separately and independent of each other.

1027 **SECTION 7.16.**

1028 Specific repealer.

1029 An Act incorporating the Town of Cohutta in the County of Whitfield, approved  
1030 April 10, 1969 (Ga. L. 1969, p. 2529), is hereby repealed in its entirety and all amendatory  
1031 acts thereto are likewise repealed in their entirety.

1032 **SECTION 7.17.**

1033 General repealer.

1034 All other laws and parts of laws in conflict with this charter are hereby repealed.