

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

DEIDRE WHITE, RONNIE BLUE,
JUDY KING, TANYA LEAKE, &
ROBERT SWARTHOUT,

Petitioners,

v.

MABLETON, GEORGIA, a
political subdivision of the
State of Georgia,

Respondent.

Civil Action File No.:

COMPLAINT FOR DECLARATORY JUDGMENT

Petitioners Deidre White, Ronnie Blue, Judy King, Tanya Leake, and Robert Swarthout (“Petitioners”), by and through counsel, file this Complaint for Declaratory Judgment against Mableton, Georgia (“Mableton”), a political subdivision of the State of Georgia. In support thereof, Petitioners state as follows:

INTRODUCTION

1. House Bill 839 (2022) (“HB 839”), a local law that provides for creation of the city of Mableton within unincorporated Cobb County, was signed into law by Governor Brian Kemp on May 9, 2022. A true and correct copy of HB 839 as passed by the Georgia General Assembly is attached hereto as Exhibit 1.¹

¹ This Act and each of the other provisions of law cited herein can be judicially noticed by this Honorable Court pursuant to O.C.G.A. § 24-2-201. The court should note that while the Act occasionally refers to the “City of Mableton”, the correct name of the city as set forth in the Act is simply “Mableton”.

2. HB 839 provides not only for the creation of Mableton, but also for the creation of Community Improvement Districts (“CIDs”) within the territory of the city: “Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is created one or more community improvement districts to be located in the City of Mableton, Georgia” HB 839, p. 57.

3. HB 839 was approved by referendum at the November 8, 2022, general election. Subsequent elections were held for the offices of Mayor and City Council, and the city is presently in the process of organization.

4. HB 839 by its explicit terms is unconstitutional and fatally defective. These defects go to the root of the bill, including its title, its body, and its ballot question. These defects cannot be remedied by any severability clause. Petitioners bring this case to obtain a declaratory judgment that HB 839 is constitutionally defective and cannot form the basis for incorporation of Mableton.

5. HB 839 is unconstitutional for two related and legally sufficient reasons. First, by creating both a city and CIDs in the same bill, HB 839 unconstitutionally creates legally separate units of local government in one act, in violation of Ga. Const. 1983 Art. III, § V, ¶ III (the “Single Subject Rule”). The Georgia constitution plainly establishes that CIDs are separate and distinct units of local government, with purposes, duties and obligations separate from those of a city, and with independent governance, levies and debt. Ga. Const. 1983 Art. IX, § VII, ¶¶ I-VI. Second, the ballot question included in the bill subjects both the creation of the city and the creation of the CIDs to a single vote without providing the opportunity for the electors to address the propositions separately, in plain violation of the doctrine prohibiting combining distinct propositions in a ballot

question established by *Rea v. City Of La Fayette*, 130 Ga. 771, 61 S.E. 707 (Ga., 1908). Either of these violations renders the bill unconstitutional and subjects it to the mandate of Ga. Const. 1983 Art. I, § II, ¶ V(a): (“Legislative acts in violation of this Constitution or the Constitution of the United States are void, and the judiciary shall so declare them.”)

6. The fatal defects in HB 839 cannot be severed from the bill so as to allow it to avoid being declared void. First, the title of HB 839 explicitly refers to both of the subject matters of the bill: establishment of the city of Mableton and “to provide for community improvement districts”. HB 839, p.1. Where the title of a bill containing two subject matters refers to both subject matters it is universally acknowledged that no severance of the offending second subject can be accomplished. *See Power, Inc. v. Huntley*, 39 Wn.2d 191, 235 P.2d 173 (Wash. 1951), surveying the law of several states. Second, the ballot question included in HB 839 explicitly calls for both creation of the city and creation of the CIDs: “Shall the Act incorporating the City of Mableton in Cobb County, imposing term limits, prohibiting conflicts of interest, and creating community improvement districts be approved?” HB 839, p. 49. There is no precedent for severing a portion of a ballot question even before a vote is taken, and certainly not after the fact. *See Kainen v. Harris*, 769 So.2d 1029, 1037 (Fla. 2000) (Lewis, J. specially concurring “I think it is important to note that if this Court were to invalidate the present ballot question, it has no authority to simply rewrite the question to be that which it deems ‘correct’”).

PARTIES

7. Petitioner Deidre White is a citizen, resident and taxpayer of Cobb County, Georgia, residing within the purported city limits of Mableton at 3981 Covey Flush Ct. SW, Smyrna, GA 30082. Petitioner White is an elector of Cobb County and the purported city of Mableton. The property owned by Petitioner White is subject to taxation and

regulation by Mableton should the city be incorporated and provide as such. Petitioner White has a public right and interest in having the constitution and laws of the State of Georgia followed, and in HB 839 being declared unconstitutional. Petitioner White has standing to bring this action for a declaratory judgment pursuant to O.C.G.A. §9-4-2. A true and correct copy of this Complaint will be served on the Attorney General of Georgia pursuant to O.C.G.A. § 9-4-7(c).

8. Petitioner Ronnie Blue is a citizen, resident and taxpayer of Cobb County, Georgia, residing within the purported city limits of Mableton at 725 Crossbuck Court SW, Smyrna, GA 30082. Petitioner Blue is an elector of Cobb County and the purported city of Mableton. The property owned by Petitioner Blue is subject to taxation and regulation by Mableton should the city be incorporated and provide as such. Petitioner Blue has a public right and interest in having the constitution and laws of the State of Georgia followed, and in HB 839 being declared unconstitutional. Petitioner Blue has standing to bring this action for a declaratory judgment pursuant to O.C.G.A. § 9-4-2.

9. Petitioner Judy King is a citizen, resident and taxpayer of Cobb County, Georgia, residing within the purported city limits of Mableton at 4141 Kalb Court SW , Smyrna, GA 30082. Petitioner King is an elector of Cobb County and the purported city of Mableton. The property owned by Petitioner King is subject to taxation and regulation by Mableton should the city be incorporated and provide as such. Petitioner King has a public right and interest in having the constitution and laws of the State of Georgia followed, and in HB 839 being declared unconstitutional. Petitioner King has standing to bring this action for a declaratory judgment pursuant to O.C.G.A. § 9-4-2.

10. Petitioner Tanya Leake is a citizen, resident and taxpayer of Cobb County, Georgia, residing within the purported city limits of Mableton at 4094 Hill House Road

SW, Smyrna, GA 30082. Petitioner Leake is an elector of Cobb County and the purported city of Mableton. The property owned by Petitioner Leake is subject to taxation and regulation by Mableton should the city be incorporated and provide as such. Petitioner Leake has a public right and interest in having the constitution and laws of the State of Georgia followed, and in HB 839 being declared unconstitutional. Petitioner Leake has standing to bring this action for a declaratory judgment pursuant to O.C.G.A. § 9-4-2.

11. Petitioner Robert Swarthout is a citizen, resident and taxpayer of Cobb County, Georgia, residing within the purported city limits of Mableton at 5100 Civitania Road, Mableton, GA 30126. Petitioner Swarthout is an elector of Cobb County and the purported city of Mableton. The property owned by Petitioner Swarthout is subject to taxation and regulation by Mableton should the city be incorporated and provide as such. Petitioner Swarthout has a public right and interest in having the constitution and laws of the State of Georgia followed, and in HB 839 being declared unconstitutional. Petitioner Swarthout has standing to bring this action for a declaratory judgment pursuant to O.C.G.A. § 9-4-2.

12. Respondent City of Mableton is a political subdivision of the State of Georgia until such time as a judgment may be rendered invalidating HB 839. Respondent is a proper party-in-interest in this case as it is a subject of HB 839. Respondent can be served by the City of Mableton Interim City Clerk, Ms. Susan Hiott.

JURISDICTION AND VENUE

13. This Court has jurisdiction over this case as Respondent is purportedly incorporated within Cobb County, Georgia, and all matters addressed herein relate to that purported incorporation within such county.

14. Venue in this action is appropriate in the Superior Court of Cobb County. This Honorable Court has subject matter jurisdiction over this case as it seeks a declaratory judgment.

RELEVANT CONSTITUTIONAL PROVISIONS AND LAW

15. Georgia's "Single Subject Rule", Ga. Const. 1983 Art. III, § V, ¶ III, requires that "No bill shall pass which refers to more than one subject matter or contains matter different from what is expressed in the title thereof." HB 839 violates the first "leg" of this familiar rule because both the title and the body of the bill refer to separate subject matters, the creation of a municipal corporation and the creation of CIDs. HB 839 is, accordingly, unconstitutional and void *ab initio* under the Single Subject Rule and Ga. Const. 1983 Art. I, § II, ¶ III(a).

16. *Rea v. City Of La Fayette*, 130 Ga. 771, 61 S.E. 707 (Ga., 1908) established the fundamental principle of Georgia law that voters cannot be forced to approve or disapprove separate proposals in one vote:

This presents a question which has never been determined by this court; but the rule is well settled elsewhere, and upon what we think sound principles, that two or more separate and distinct propositions cannot be combined into one and submitted to the voters of a county or a municipality as a single question, so as to have one expression of the voter answer all of them . . . As such a method of submission is contrary to that freedom of choice on the part of the voters, and the fair and free expression of the public judgment, which should prevail in all elections, and is likewise against the spirit of our state Constitution, it should not be permitted by the courts . . .

Id., 61 S.E. at 707-708, 710. *See also Carter v. Burson*, 198 S.E.2d 151, 156, 230 Ga. 511 (Ga. 1973); *City of North Platte v. Tilgner*, 282 Neb. 328, 803 N.W.2d 469 (Neb. 2011). HB 839 is, accordingly, unconstitutional and void *ab initio* under the doctrine established in *Rea* and Ga. Const. 1983 Art. I, § II, ¶ III(a).

17. The power of the General Assembly to create CIDs is granted under the terms of Ga. Const. 1983 Art. IX, § VII, ¶¶ I-VI. These provisions carefully create CIDs as local units of government separate from cities and counties. *See, e.g.*, Ga. Const. 1983 Art. IX, § VII, ¶ IV: “The administrative body of a community improvement district may incur debt, as authorized by law, without regard to the requirements of Section V of this Article, which debt shall be backed by the full faith, credit, and taxing power of the community improvement district but shall not be an obligation of the State of Georgia or any other unit of government of the State of Georgia other than the community improvement district.” The reason for this legal separation of CIDs from other units of local government is clear. CIDs have a separate existence, separate taxes, and separate debts to protect cities and counties against obligations and liabilities for CID contracts and debts. Importantly, the constitution lays out a method for creation of CIDs that permits them to be included in a city charter without violating the Single Subject Rule, but that method was not followed in HB 839. Ga. Const. 1983 Art. IX, § VII, ¶ I (emphasis added) provides that:

The General Assembly may by local law create one or more community improvement districts for any county or municipality ***or provide for the creation of one or more community improvement districts by any county or municipality.***

Had HB 839 simply authorized Mableton to create CIDs, it would have passed legal muster. But that is not what the bill does. Instead, it improperly creates CIDS in the same bill that creates the city, as is patently recited in the text (under the caption “Creation”, no less), and in the ballot question’s language (“creating community improvement districts”). Like school districts, CIDs are entities legally separate from the county or municipality all or part of whose territory they operate in, with their own purposes set forth in the constitution, their own right to levy taxes (collected by the local authorities on behalf of the district just as school taxes), their own right to incur debt, etc. In fact, the taxation limit of CIDs, set at 25 mills by Ga. Const. 1983 Art. IX, § VII, ¶ III, is actually higher than the general 20 mill limitation applicable to school districts under Ga. Const. 1983 Art. VIII, § VI, ¶ I. While it may have been convenient to “cut corners” by creating separate units of local government in a single bill, to do so is a plain violation of the seminal constitutional doctrine developed by Georgia in response to the Yazoo Land Fraud, the Single Subject Rule. Furthermore, seeking approval of two distinct propositions in a single ballot question is a plain violation of the doctrine established by *Rea, supra*, and is a separate and distinct constitutional defect.

18. The case at bar is legally indistinguishable from the West Virginia case of *Simms v. Sawyers*, 101 S.E. 467, 85 W.Va. 245 (W. Va. 1919), which relied in part on the Georgia decision in *King v. Banks*, 61 Ga. 21 (1878) to support its ruling. In *Simms*, a city was incorporated by a bill that also created an independent school district for the same city. The *Simms* court noted, as is true in this case, that the city could have been authorized in its enabling act to create such a district, but the creation of two distinct units of government by one bill plainly violated the Single Subject Rule:

Does the act in question embrace two distinct subjects of legislation? It establishes two separate and distinct corporations in nowise connected with each other, except in that their territorial extent is the same. Each have separate powers; each operates independently of the other, having different objects and purposes for their accomplishment. It may be that if the legislature had attempted only to create the city of Hinton as a public corporation, and to cast upon that public corporation the obligation and duty of providing for the free schools within the territorial limits of the city, it could have accomplished that purpose in one act, although we do not decide that question . . . But this act does not undertake to do that. It creates the city of Hinton and makes it a body politic, a public corporation, giving it certain well-defined powers and duties; it then creates the Board of Education of the Independent District of Hinton a separate and distinct corporation, conferring upon it certain powers, duties and obligations, and prescribing the method of their performance. The duties to be performed by each of these public corporations are separate and distinct. The official personnel thereof is distinct. Each lays its own levy for the accomplishment of the duties entrusted to it. We are constrained to hold that this act embraces two separate subjects of legislation[.]

Simms, 85 W.Va at 254-255. As the West Virginia Supreme Court later noted in *Kincaid v. Mangum*, 189 W.Va. 404, 432 S.E.2d 74, 80 (W. Va. 1993), discussing the *Simms* decision: “The fact that both portions of the act involved the same city was not sufficient to save the act.”

FACTS

19. HB 839 was signed into law by Governor Brian Kemp on May 9, 2022.
20. The title of HB 839 recites that the bill provides for incorporation of the city of Mableton and for community improvement districts. HB 839, p. 1.
21. The text of HB 839 provides for incorporating the city of Mableton and creating one or more community improvement districts. HB 839, pp. 2, 57.
22. The ballot question included in HB 839 calls for approval of the questions of incorporating the city of Mableton and creating community improvement districts. HB 839, p. 49.
23. HB 839 was approved by referendum held at the November 8, 2022, general election.

COUNT I (Declaratory Judgment)

24. The averments of paragraphs 1 through 33 are incorporated by reference herein. This count for declaratory judgment under O.C.G.A. § 9-4-2 *et seq.* lies against Respondent.
25. HB 839 violates the Georgia Constitution of 1983. First it violates Ga. Const. 1983 Art. III, § V, ¶ III, requiring that “No bill shall pass which refers to more than one subject matter or contains matter different from what is expressed in the title thereof” because the title, the bill, and the ballot question purport to create separate units of local government. Second, HB 839’s ballot question violates the doctrine prohibiting combining distinct propositions in a single ballot question established by *Rea v. City Of La Fayette*, 130 Ga. 771, 61 S.E. 707 (Ga., 1908).
26. Accordingly, because HB 839 is clearly unconstitutional, Petitioners are entitled to a declaratory judgment that such Act is void and does not operate to create the

city of Mableton. This is a case of actual controversy, and Petitioners seek to “declare rights and other legal relations” related to HB 839. O.C.G.A. § 9-4-2.

27. Petitioners have a clear legal right to have the Georgia Constitution of 1983 followed by in all respects and has promptly filed this complaint to preserve that right. However, Petitioners are cognizant of the fact that Respondent is in the process of organization, and Petitioners will work with counsel for Respondent as it is appropriately organized and formed. Petitioners do not object to extending the time to answer this lawsuit.

28. Accordingly, this Honorable Court should issue judgment declaring HB 839 void and of no effect pursuant to O.C.G.A. § 9-4-2.

WHEREFORE, Petitioners respectfully request that this Honorable Court:

- a) Issue an order staying the obligation of Respondent to answer this complaint until such time as the court is satisfied that the purported city is appropriately organized.
- b) Issue a declaratory judgment declaring HB 839 unconstitutional and void.
- c) Award any other relief this Honorable Court finds just and proper.

Respectfully submitted this 15th day of May, 2023.

/s/ Allen Lightcap
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Attorney for Petitioners

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Exhibit 1

House Bill 839

By: Representatives Thomas of the 39th, Wilkerson of the 38th, Allen of the 40th, and Anulewicz of the 42nd

A BILL TO BE ENTITLED

AN ACT

1 To incorporate the City of Mableton; to provide a charter for the City of Mableton; to provide
2 for incorporation, boundaries, and powers of the city; to provide for a governing authority
3 of such city and the powers, duties, authority, election, terms, method of filling vacancies,
4 compensation, qualifications, prohibitions, and removal from office relative to members of
5 such governing authority; to provide for inquiries and investigations; to provide for
6 organization and procedures; to provide for ordinances and codes; to provide for the offices
7 of mayor and city manager and certain duties and powers relative to those offices; to provide
8 for administrative responsibilities; to provide for boards, commissions, and authorities; to
9 provide for a city attorney and a city clerk; to provide for rules and regulations; to provide
10 for a municipal court and the judge or judges thereof; to provide for practices and
11 procedures; to provide for taxation and fees; to provide for franchises, service charges, and
12 assessments; to provide for bonded and other indebtedness; to provide for accounting and
13 budgeting; to provide for purchases; to provide for the sale of property; to provide for bonds
14 for officials; to provide for definitions and construction; to provide for other matters relative
15 to the foregoing; to provide for a referendum; to provide effective dates; to provide for
16 transition of powers and duties; to provide for community improvement districts; to provide
17 for directory nature of dates; to provide for related matters; to repeal conflicting laws; and
18 for other purposes.

H. B. 839

- 1 -

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 ARTICLE I
21 INCORPORATION AND POWERS

22 SECTION 1.10.

23 Name.

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

27 SECTION 1.11.

28 Corporate boundaries.

29 (a) The corporate boundaries of this city shall be as described and set forth in Appendix A
30 of this charter, and said Appendix A is incorporated into and made a part of this charter.

31 (b) The city council shall maintain a current map and written legal description of the
32 corporate boundaries of the city, and such map and description shall incorporate any changes
33 which may hereafter be made in such corporate boundaries.

34 SECTION 1.12.

35 Powers and construction.

36 (a) This city shall have all powers possible for a city to have under the present or future
37 constitution and laws of this state as fully and completely as though they were specifically
38 enumerated in this charter. This city shall have all the powers of self-government not
39 otherwise prohibited by this charter or by general law.

(b) The powers of this city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of this city. Such particular powers shall include those enumerated in Section 1.13 of this charter.

SECTION 1.13.

Examples of powers.

(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;

(2) Appropriations and expenditures. To make appropriations for the support of the government of the city; 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 city;

(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, electrical, gas, and heating and air conditioning codes; and to regulate all housing and building trades to the extent permitted by general law;

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

(5) Condemnation. To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the governing authority for governmental uses, utilizing procedures enumerated in Titles 22 or 32 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted;

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

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

(8) Environmental protection. To protect and preserve the natural resources, environment, and vital areas of the city, the region, and the state through the preservation and improvement of air quality; the restoration and maintenance of water resources; the control of erosion and sedimentation; the control, regulation, and management of stormwater and establishment of a stormwater utility; the management of solid and hazardous waste; and other necessary actions for the protection of the environment;

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

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

91 (11) General health, safety, and welfare. To define, regulate, and prohibit any act,
92 practice, conduct, or use of property which is detrimental to health, sanitation,
93 cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the
94 enforcement of such standards;

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

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

100 (14) Jail sentences. To provide that persons given jail sentences in the city's court may
101 fulfill such sentences in any public works or on the streets, roads, drains, and other public
102 property in the city; to provide for commitment of such persons to any jail; and to provide
103 for the use of pretrial diversion and any alternative sentencing allowed by law, or to
104 provide for commitment of such persons to any county work camp or county jail by
105 agreement with the appropriate county officials;

106 (15) Motor vehicles. To regulate the operation of motor vehicles and exercise control
107 over all traffic, including parking upon or across the streets, roads, alleys, and walkways
108 of the city;

109 (16) Municipal agencies and delegation of power. To create, alter, or abolish
110 departments, boards, offices, commissions, authorities, and agencies of the city, and to
111 confer upon such agencies the necessary and appropriate authority for carrying out all the
112 powers conferred upon or delegated to the same;

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

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

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

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

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

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

(23) Planning and zoning. To provide comprehensive city planning for land use, signage, outside advertising, and development by zoning and to provide subdivision regulation and the like as the city council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;

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

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

(26) Public improvements. To provide for the acquisition, construction, building, operation, maintenance, and abandonment of public ways, parks and playgrounds, cemeteries, markets and market houses, public buildings, libraries, public housing, airports, hospitals, terminals, docks, and charitable, cultural, educational, recreational, parking, conservation, sport, curative, corrective, detentional, penal, and medical institutions, agencies, and facilities; to provide any other public improvements, inside or outside the corporate limits of the city; to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 or Title 32 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted;

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

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

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

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

(31) Retirement; employment benefits. To provide and maintain a retirement plan and other employee benefit plans and programs for appointed officers and employees of the city;

(32) Roadways. To lay out, open, extend, widen, narrow, establish, or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; to grant franchises and rights-of-way throughout the streets and roads, and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands, and to impose penalties for failure to do so;

(33) Sewer and water fees. To assess fees, charges, or taxes as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewerage system and one or more sewage treatment plants, on those to whom sewer systems are made available; to provide for the manner and method of collecting such fees, charges, or taxes and for enforcing payment of the same, including by lien; and to charge, impose, and collect a sewer connection fee or fees to those connecting to the system;

(34) Solid waste disposal. To provide for the collection and disposal of garbage, rubbish, and refuse; to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;

(35) Special areas of public regulation. To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage, and use of combustible, explosive, and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores to certain areas;

(36) Special assessments. To levy and provide for the collection of special assessments to cover the costs for any public improvements, subject to a referendum;

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

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

(39) Taxicabs. To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles;

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

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

SECTION 1.14.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes

219 no provision, such shall be carried into execution as provided by ordinance or as provided
220 by pertinent laws of the State of Georgia.

221 **ARTICLE II**
222 **GOVERNMENT STRUCTURE**

223 **SECTION 2.10.**

224 City council creation; number; election.

225 The legislative authority of the government of this city, except as otherwise specifically
226 provided in this charter, shall be vested in a city council to be composed of a mayor and six
227 councilmembers. The mayor and councilmembers shall be elected in the manner provided
228 by general law and this charter.

229 **SECTION 2.11.**

230 City council terms and qualifications for office.

231 (a) The mayor and members of the city council shall serve for terms of four years and until
232 their respective successors are elected and qualified. No person shall be eligible to serve as
233 mayor or councilmember unless that person is at least 21 years of age or older on the date of
234 qualification, and shall have been a resident of the area encompassed by the corporate
235 boundaries of the city for at least 12 months immediately prior to the date of his or her
236 election. Additionally, no person shall be eligible to serve as councilmember unless that
237 person shall have been a resident of the district for which he or she seeks election for a period
238 of at least 12 months immediately prior to his or her election. The mayor and each
239 councilmember shall continue to reside within such corporate boundaries during their
240 respective periods of service and to be registered and qualified to vote in municipal elections

of the city. Additionally, councilmembers shall continue to reside in the district for which they were elected during their respective periods of service.

(b) Upon serving three complete consecutive terms as a member of the city council, any such member shall be ineligible to seek reelection to such office. Upon serving three complete consecutive terms as mayor, such individual shall be ineligible to seek reelection to such office. A member of the city council who becomes ineligible to serve another consecutive term in such office pursuant to this subsection shall nevertheless be eligible to seek the office of mayor, and a mayor who becomes ineligible to serve another consecutive term in such office pursuant to this subsection shall nevertheless be eligible to seek election as a member of the city council. Partial terms of office or initial terms of office of less than four years under Section 5.11 of this charter shall not be counted in determining the number of terms served.

SECTION 2.12.

Vacancy; filling of vacancies.

(a) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, failure to maintain the residency requirements of Section 2.11 of this charter, or occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the O.C.G.A., or such other applicable laws as are or may hereafter be enacted.

(b) A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the city council or those members remaining if less than 12 months remains in the unexpired term. If such vacancy occurs 12 months or more prior to the expiration of the term of that office, it shall be filled for the remainder of the unexpired term by a special election, as provided for in Section 5.14 of this charter and

265 in accordance with Titles 21 and 45 of the O.C.G.A., or other such laws as are or may
266 hereafter be enacted.

267 (c) This provision shall also apply to a temporary vacancy created by the suspension from
268 office of the mayor or any councilmember.

269 **SECTION 2.13.**

270 Compensation and expenses.

271 (a) The initial annual salary of the mayor shall be \$30,000.00, and the initial annual salary
272 of each councilmember shall be \$20,000.00.

273 (b) Thereafter, such salaries may be adjusted by the governing authority in accordance with
274 Code Section 36-35-4 of the O.C.G.A.

275 (c) Such salaries shall be paid from municipal funds in equal monthly installments.

276 (d) The city council may provide for an allowance for expenses actually and necessarily
277 incurred by the mayor and councilmembers in carrying out their official duties; provided,
278 however, that the annual total of such allowance shall not exceed \$5,000.00 for the mayor
279 and \$3,000.00 for any councilmember.

280 **SECTION 2.14.**

281 Conflicts of interest; holding other offices.

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

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

286 (1) Engage in any business or transaction, or have a financial or other personal interest,
287 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 the official's judgment or action in the performance of those official duties;

(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;

(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;

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

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

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

(c) Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the city council. The mayor or any councilmember who has a financial interest in any matter pending before the city council shall disclose such interest and such disclosure shall be entered on the records of the city council, and that official shall disqualify himself or herself from participating in any

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

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

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

(f) Except where authorized by law, neither the mayor nor any councilmember shall hold any other elective or appointive office in the city or otherwise be employed by such government or any agency thereof during the term for which that official was elected. No former mayor and no former councilmember shall hold any appointive office in the city until one year after the expiration of the term for which that official was elected.

(g) No appointive officer of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No employee of the city shall continue in such employment upon qualifying for or election to any public office in this city or any other public office which is inconsistent, incompatible, or in conflict with the duties of the city employee. Such determination shall be made by the mayor and council either immediately upon election or at any time such conflict may arise.

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

(2) Any officer or employee of the city who shall forfeit an office or position as described in paragraph (1) of this subsection shall be ineligible for appointment or

342 election to or employment in a position in the city government for a period of three years
343 thereafter.

344 **SECTION 2.15.**

345 Inquiries and investigations.

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

352 **SECTION 2.16.**

353 General power and authority of the city council.

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

356 (b) In addition to all other powers conferred upon it by law, the city council shall have the
357 authority to adopt and provide for the execution of such ordinances, resolutions, rules, and
358 regulations, not inconsistent with this charter and the Constitution and the laws of the State
359 of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order,
360 protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity,
361 or well-being of the inhabitants of the City of Mableton and may enforce such ordinances by
362 imposing penalties for violation thereof.

363 (c) The city council shall have the power to discipline, suspend, and remove all appointed
364 officials and employees of the city as set forth in this charter or in such resolutions and
365 ordinances as may be adopted by the governing authority.

366 (d) Unless otherwise provided by law, appeals of decisions of the city council shall be by
367 certiorari to the Superior Court of Cobb County.

368 **SECTION 2.17.**

369 Eminent domain.

370 The city council is hereby empowered to acquire, construct, operate, and maintain public
371 ways, parks and playgrounds, public grounds, cemeteries, markets and market houses, public
372 buildings, libraries, public housing, airports, hospitals, terminals, docks, sewers, drains,
373 sewage treatment, waterworks, electrical systems, gas systems, and charitable, cultural,
374 educational, recreational, parking, conservation, sport, curative, corrective, detentional,
375 penal, and medical institutions, agencies, and facilities, and any other public improvements
376 inside or outside the city, and to regulate the use thereof, and for such purposes, property
377 may be condemned under procedures established under general law applicable now or as
378 provided in the future.

379 **SECTION 2.18.**

380 Organizational meetings.

381 The city council shall hold an organizational meeting on the first Tuesday in January of each
382 year unless otherwise prescribed by ordinance, provided that if such date falls on a legal
383 holiday, then the organizational meeting shall be held on the next business day. The meeting
384 shall be called to order by the city clerk and the oath of office shall be administered to the

385 newly elected members by a judicial officer authorized to administer oaths and shall, to the
386 extent that it comports with federal and state law, be as follows:

387 "I do solemnly (swear)(affirm) that I will faithfully perform the duties of
388 (mayor)(councilmember) of this city and that I will support and defend the charter thereof
389 as well as the Constitution and laws of the State of Georgia and of the United States of
390 America. I am not the holder of any unaccounted for public money due this state or any
391 political subdivision or authority thereof. I am not the holder of any office of trust under
392 the government of the United States, any other state, or any foreign state which I, by the
393 laws of the State of Georgia, am prohibited from holding. I am otherwise qualified to hold
394 said office according to the Constitution and laws of the State of Georgia. I have been a
395 resident of my district and the City of Mableton for the time required by the Constitution
396 and laws of this state and by the municipal charter. I will perform the duties of my office
397 in the best interest of the City of Mableton to the best of my ability without fear, favor,
398 affection, reward, or expectation thereof."

399 **SECTION 2.19.**

400 Regular and special meetings.

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

403 (b) Special meetings of the city council may be held on call of the mayor or four members
404 of the city council. Notice of such special meetings shall be served on all other members
405 personally, or by telephone personally, at least 48 hours in advance of the meeting. Such
406 notice to councilmembers shall not be required if the mayor and all councilmembers are
407 present when the special meeting is called. Such notice of any special meeting may be
408 waived by a councilmember in writing before or after such a meeting, and attendance at the
409 meeting shall also constitute a waiver of notice on any business transacted in such

410 councilmembers presence. Only the business stated in the call may be transacted at the
411 special meeting.

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

416 **SECTION 2.20.**

417 Rules of procedure.

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

421 (b) All committees and committee chairs and officers of the city council shall be appointed
422 by the mayor and shall serve at the pleasure of the mayor. The mayor shall have the power
423 to appoint new members to any committee at any time.

424 **SECTION 2.21.**

425 Quorum: voting

426 (a) Four councilmembers, excluding the mayor, shall constitute a quorum and shall be
427 authorized to transact business of the city council. Voting on the adoption of ordinances
428 shall be by voice vote and the vote shall be recorded in the journal, but any member of the
429 city council shall have the right to request a roll call vote and such vote shall be recorded in
430 the journal. Except as otherwise provided in this charter, the affirmative vote of three
431 councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

432 (b) No member of the city council shall abstain from voting on any matter properly brought
433 before the council for official action except when such councilmember has a conflict of
434 interest which is disclosed in writing prior to or at the meeting and made a part of the
435 minutes. Any member of the city council present and eligible to vote on a matter and
436 refusing to do so for any reason other than a properly disclosed and recorded conflict of
437 interest shall be deemed to have acquiesced or concurred with the members of the majority
438 who did vote on the question involved.

439 **SECTION 2.22.**

440 Ordinance form; procedures.

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

445 (b) An ordinance may be introduced by any councilmember and be read at a regular or
446 special meeting of the city council. Ordinances shall be considered and adopted or rejected
447 by the city council in accordance with the rules which it shall establish; provided, however,
448 an ordinance shall not be adopted the same day it is introduced, except for emergency
449 ordinances provided in Section 2.24. Upon introduction of any ordinance, the clerk shall as
450 soon as possible distribute a copy to the mayor and to each councilmember and shall file a
451 reasonable number of copies in the office of the clerk and at such other public places as the
452 city council may designate.

SECTION 2.23.

Action requiring an ordinance.

Acts of the city council which have the force and effect of law shall be enacted by ordinance.

SECTION 2.24.

Emergencies.

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

(b) Such meetings shall be open to the public to the extent required by law and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance

476 with Code Section 50-14-1 of the O.C.G.A., or such other applicable laws as are or may
477 hereafter be enacted.

478 **SECTION 2.25.**

479 Codes of technical regulations.

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

483 (1) The requirements of subsection (b) of Section 2.22 of this charter for distribution and
484 filing of copies of the ordinance shall be construed to include copies of any code of
485 technical regulations, as well as the adopting ordinance; and

486 (2) A copy of each adopted code of technical regulations, as well as the adopting
487 ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26 of
488 this charter.

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

491 **SECTION 2.26.**

492 Signing; authenticating; recording; codification; printing.

493 (a) The city clerk shall authenticate by his or her signature and record in full in a properly
494 indexed book kept for that purpose, all ordinances adopted by the council.

495 (b) The city council shall provide for the preparation of a general codification of all the
496 ordinances of the city having the force and effect of law. The general codification shall be
497 adopted by the city council by ordinance and shall be published promptly, together with all
498 amendments thereto and such codes of technical regulations and other rules and regulations

499 as the city council may specify. This compilation shall be known and cited officially as "The
500 Code of the City of Mableton, Georgia." Copies of the code shall be furnished to all officers,
501 departments, and agencies of the city, and made available for purchase by the public at a
502 reasonable price as fixed by the city council.

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

512 **SECTION 2.27.**

513 City manager; appointment; qualifications; compensation.

514 The city council may appoint a city manager to serve at the pleasure of the city council and,
515 if so appointed, shall fix the city manager's compensation. The city manager shall be
516 appointed solely on the basis of executive and administrative qualifications.

517 **SECTION 2.28.**

518 Removal of city manager.

519 If a city manager is appointed by the city council, then the city council may establish
520 procedures for the removal of the manager from office.

521 **SECTION 2.29.**

522 Acting city manager.

523 When a city manager has been appointed by the city council, and in the event of absence or
524 disability, the city manager may, by a letter filed with the city clerk, designate, subject to
525 approval of the city council, a qualified city administrative officer to exercise the powers and
526 perform the duties of city manager during the city manager's temporary absence or physical
527 or mental disability. During such absence or disability, the city council may revoke such
528 designation at any time and appoint another officer of the city to serve until the city manager
529 shall return or the city manager's absence or disability shall cease.

530 **SECTION 2.30.**

531 Powers and duties of the city manager.

532 When a city manager has been appointed by the city council, the city manager shall be the
533 chief executive and administrative officer of the city. The city manager shall be responsible
534 to the city council for the administration of all city affairs placed in the city manager's charge
535 by the city council or this charter. As the chief executive and administrative officer, the city
536 manager shall:

537 (1) Other than appointments reserved to the mayor in this charter, suspend, discipline,
538 or remove any city employee or administrative officer that the city manager appoints,
539 when the city manager deems it necessary for the good of the city, except as otherwise
540 provided by law or personnel ordinances adopted pursuant to this charter. The city
541 manager may authorize any administrative officer who is subject to the city manager's
542 direction and supervision to exercise these powers with respect to subordinates in that
543 officer's department, office or agency;

- (2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law;
- (3) Attend all city council meetings except for closed meetings held for the purposes of deliberating on the appointment, discipline, or removal of the city manager and have the right to take part in discussion but not vote;
- (4) See that all laws, provisions of this charter, and acts of the city council, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed;
- (5) Prepare and submit the annual operating budget and capital budget to the city council;
- (6) Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
- (7) Issue such other reports as the city council may require concerning the operations of city departments, offices, and agencies subject to the city manager's direction and supervision;
- (8) Keep the city council fully advised as to the financial condition and future needs of the city, and make such recommendations to the city council concerning the affairs of the city as the city manager deems desirable; and
- (9) Perform other such duties as are specified in this charter or as may be required by the city council.

SECTION 2.31.

Council interference with administration.

When a city manager has been appointed by the city council, except for the purpose of inquiries and investigations under Section 2.15 of this charter, the city council or its members shall deal with city officers and employees who are subject to the direction and supervision

569 of the city manager solely through the city manager, and neither the city council nor its
570 members shall give orders to any such officer or employee, either publicly or privately.

571 **SECTION 2.32.**

572 Election of mayor; forfeiture; compensation.

573 The mayor shall be elected and serve for a term of four years and until a successor is elected
574 and qualified. The mayor shall be a qualified elector of this city and shall have been a
575 resident of the city for at least 12 months immediately prior to his or her election. The mayor
576 shall continue to reside in this city during the period of service. The mayor shall forfeit the
577 office on the same grounds and under the same procedure as for councilmembers. The
578 compensation of the mayor shall be established in the same manner as for councilmembers.

579 **SECTION 2.33.**

580 Mayor pro tempore.

581 By a majority vote at the first meeting of the city council in January of each year, the city
582 council shall elect a councilmember to serve as mayor pro tempore until the first regular
583 meeting of the city council in the following calendar year. The mayor pro tempore shall
584 assume the duties and powers of the mayor during the mayor's physical or mental disability,
585 suspension from office, or absence. Any such disability or absence shall be declared by a
586 majority vote of the city council. The mayor pro tempore shall sign all contracts and
587 ordinances in which the mayor has a disqualifying financial interest as provided in Section
588 2.14 of this charter. When acting as mayor, the mayor pro tempore shall continue to have
589 only one vote as a member of the council and shall exercise that power notwithstanding
590 paragraph (5) of Section 2.34 of this charter. A vacancy in the position of mayor pro
591 tempore resulting from the mayor pro tempore ceasing to serve as a councilmember, or from

592 any other cause, shall be filled for the remainder of the unexpired term in the same manner
593 as the original election.

594 **SECTION 2.34.**

595 Powers and duties of mayor.

596 The mayor shall:

- 597 (1) Preside at all meetings of the city council;
- 598 (2) Be the head of the city for the purpose of service of process and for ceremonial
599 purposes, and be the official spokesperson for the city and the chief advocate of policy
600 adopted by the city council;
- 601 (3) Have the power to administer oaths and to take affidavits;
- 602 (4) Sign as a matter of course on behalf of the city all written and approved contracts,
603 ordinances, and other instruments executed by the city which by law are required to be
604 in writing;
- 605 (5) Vote on matters before the city council;
- 606 (6) If no city manager has been appointed, prepare and submit to the city council a
607 recommended annual operating budget and recommended capital budget; and
- 608 (7) Fulfill such other executive and administrative duties as the city council shall by
609 ordinance establish.

ARTICLE III

ADMINISTRATIVE AFFAIRS

SECTION 3.10.

Administrative and service departments.

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

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

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

(d) There shall be a director of each department or agency who shall be its principal officer. Each director shall, subject to the direction and supervision of the mayor or, in the case where the city council has appointed a city manager, the city manager, be responsible for the administration and direction of the affairs and operations of that director's department or agency.

(e) All appointive officers and directors shall be nominated by the mayor with confirmation of appointment by at least two of the other members of the city council. If the other members of the city council reject an officer or director nominated by the mayor, such other members of the city council shall then proceed to fill such appointment by majority vote of the city council. Appointments by the city council shall be subject to veto by the mayor, which may be overridden by the vote of four members of the city council. All appointive officers and directors other than the city manager and municipal court judges shall be employees at-will and subject to removal, suspension, or other discipline at any time by the

636 city council. In the case when the city council has appointed a city manager, the city
637 manager, unless otherwise provided by law or ordinance, may remove, suspend, or discipline
638 at any time any appointed officers, directors, or employees of the city, except for the city
639 clerk, judges of the municipal court, and the city attorney.

640 **SECTION 3.11.**

641 **Boards, commissions, and authorities.**

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

646 (b) All members of boards, commissions, and authorities of the city shall be appointed by
647 a majority vote of the city council, except where otherwise prescribed by this charter or by
648 law. Except as otherwise provided by this charter or by law, each board, commission, or
649 authority shall consist of seven members with one member being appointed by each member
650 of the city council and the mayor. Members appointed by the mayor may reside anywhere
651 within the corporate limits of the city, but a member appointed by a councilmember shall
652 reside within the district of the councilmember who appointed such member.

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

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

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

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

664 (g) All board, commission, or authority members serve at-will and may be removed at any
665 time by a vote of three members of the city council unless otherwise provided by law.

666 (h) Except as otherwise provided by this charter or by law, each board, commission, or
667 authority of the city shall elect one of its members as chair and one member as vice-chair,
668 and may elect as its secretary one of its own members or may appoint as secretary an
669 employee of the city. Each board, commission, or authority of the city government may
670 establish such bylaws, rules, and regulations, not inconsistent with this charter, ordinances
671 of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or
672 the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with
673 the clerk of the city.

674 **SECTION 3.12.**

675 City attorney.

676 The city council shall appoint a city attorney, together with such assistant city attorneys as
677 may be authorized, and shall provide for the payment of such attorney or attorneys for
678 services rendered to the city. The city attorney shall be responsible for providing for the
679 representation and defense of the city in all litigation in which the city is a party; may be the
680 prosecuting officer in the municipal court; shall attend the meetings of the council as
681 directed; shall advise the city council, mayor, and other officers and employees of the city
682 concerning legal aspects of the city's affairs; and shall perform such other duties as may be
683 required by virtue of the person's position as city attorney. The city attorney shall not be a
684 public official of the city and shall not take an oath of office. The city attorney shall at all

685 times be an independent contractor. A law firm, rather than an individual, may be designated
686 as the city attorney. The city attorney shall serve at the pleasure of the city council.

687 **SECTION 3.13.**

688 City clerk.

689 The city council shall appoint a city clerk who shall not be a councilmember. The city clerk
690 shall be custodian of the official city seal and city records; maintain city council records
691 required by this charter; and perform such other duties as may be required by the city
692 council. The city clerk shall serve at the pleasure of the city council.

693 **SECTION 3.14.**

694 Position classification and pay plans.

695 The mayor or, in the case where the city council has appointed a city manager, the city
696 manager, shall be responsible for the preparation of a position classification and pay plan
697 which shall be submitted to the city council for approval. Such plan may apply to all
698 employees of the city and any of its agencies, departments, boards, commissions, or
699 authorities. When a pay plan has been adopted, the city council shall not increase or decrease
700 the salary range applicable to any position except by amendment of such pay plan. For
701 purposes of this section, all elected and appointed city officials are not city employees.

702 **SECTION 3.15.**

703 Personnel policies.

704 All employees shall serve at-will and may be removed from office at any time unless
705 otherwise provided by ordinance.

706 ARTICLE IV
707 JUDICIAL BRANCH
708 SECTION 4.10.
709 Creation; name.

710 There shall be a court to be known as the Municipal Court of the City of Mableton.

711 SECTION 4.11.
712 Chief judge; associate judge.

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

715 (b) No person shall be qualified or eligible to serve as a judge on the municipal court unless
716 that person shall have attained the age of 21 years and meets the qualifications provided in
717 general law for municipal court judges. All judges shall be appointed by the city council and
718 shall serve until a successor is appointed and qualified.

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

720 (d) Judges may be removed from office in accordance with state law.

721 (e) Before assuming office, each judge shall take an oath, given by the mayor, that the judge
722 will honestly and faithfully discharge the duties of the office to the best of that person's
723 ability and without fear, favor or partiality. The oath shall be entered upon the minutes of
724 the city council journal required in Section 2.20 of this charter.

725 SECTION 4.12.
726 Convening.

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

SECTION 4.13.**Jurisdiction; powers.**

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

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

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

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

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

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

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

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

SECTION 4.14.

Certiorari.

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

SECTION 4.15.

Rules for court.

With the approval of the city council, the judge shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the city council may adopt in part or in toto the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public

776 inspection, and, upon request, a copy shall be furnished to all defendants in municipal court
777 proceedings at least 48 hours prior to said proceedings.

778 **ARTICLE V**
779 **ELECTIONS AND REMOVAL**
780 **SECTION 5.10.**
781 **Applicability of general law.**

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

784 **SECTION 5.11.**
785 **Election of the city council and mayor.**

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

788 (b) There shall be elected the mayor and councilmembers from Council Districts 4, 5, and 6
789 at one election and at every other regular election thereafter. The remaining city council
790 seats from Council Districts 1, 2, and 3 shall be filled at the election alternating with the first
791 election so that a continuing body is created.

792 (c) Each councilmember shall be elected by a majority vote of the qualified electors of his
793 or her respective council district voting at the elections of the city. For the purpose of
794 electing members of the council, the City of Mableton shall consist of six council districts
795 as described in Appendix B of this charter, which is attached and incorporated into this
796 charter by reference. Each candidate for election to the council other than the mayor shall
797 reside in the council district he or she seeks to represent.

798 (d) If the city is formed as a result of the referendum held in the 2022 general primary, the
799 first election for mayor and councilmembers shall be a special election held in conjunction
800 with the 2022 November general election. At such election, the mayor and councilmembers
801 elected from Council Districts 4, 5 and 6 shall be elected for initial terms of office beginning
802 immediately after their election and expiring upon the election and qualification of their
803 respective successors in 2027. The councilmembers elected from Council Districts 1, 2,
804 and 3 shall be elected for initial terms of office beginning immediately after their election
805 and expiring upon the election and qualification of their respective successors in 2025.
806 Thereafter, successors to the mayor and councilmembers shall be elected at the November
807 general election immediately preceding the end of their respective terms of office, and such
808 successors shall take office in accordance with subsection (g) of this section for terms of four
809 years and until their respective successors are elected and qualified.

810 (e) If the city is formed as a result of a referendum held in a special election after the 2022
811 general primary but on or before the 2022 November general election, then the first election
812 for mayor and councilmembers shall be a special election to be held on the first special
813 election date pursuant to Code Section 21-2-540 of the O.C.G.A. in 2023. At such special
814 election, the mayor and councilmembers elected from Council Districts 4, 5, and 6 shall be
815 elected for initial terms of office beginning immediately after their election and expiring
816 upon the election and qualification of their respective successors in 2027. The
817 councilmembers from Council Districts 1, 2, and 3 shall be elected for initial terms of office
818 beginning immediately after their election and expiring upon the election and qualification
819 of their respective successors in 2025. Thereafter, successors to the mayor and
820 councilmembers shall be elected at the November general election immediately preceding
821 the end of their respective terms of office, and such successors shall take office in accordance
822 with subsection (g) of this section for terms of four years and until their respective successors
823 are elected and qualified.

824 (f) The mayor, for the special election and each subsequent election for mayor, shall be
825 elected by the qualified electors of the city at large voting in such elections of the city.

826 (g) Except for the initial election of the mayor and city council, the terms of office of the
827 mayor and councilmembers shall begin on the Monday following such person's election
828 which is at least five days following the certification of the results of such person's election
829 to such office unless a petition to contest the results of such person's election to such office
830 is filed pursuant to Article 13 of Chapter 2 of Title 21 of the O.C.G.A. If a petition to contest
831 the election results is filed, such person shall not be sworn in until a judgment has been
832 entered pursuant to Code Section 21-2-527 of the O.C.G.A. or such petition has been
833 withdrawn or dismissed. In such case, the person's term of office shall begin on the Monday
834 following the entry of such judgment or the withdrawal or dismissal of such petition. Such
835 officeholder shall be sworn in at the next meeting of the governing authority, which shall be
836 held not later than two weeks following the beginning of such person's term of office and
837 shall hold office until his or her successor's term begins in accordance with this subsection.

838 **SECTION 5.12.**

839 Nonpartisan elections.

840 Political parties shall not conduct primaries for city offices and all names of candidates for
841 city offices shall be listed without party designations.

842 **SECTION 5.13.**

843 Election by majority.

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

SECTION 5.14.

Special elections; vacancies.

In the event that the office of mayor or councilmember shall become vacant as provided in Section 2.12 of this charter, the city council or those remaining shall order a special election to fill the balance of the unexpired term of such official; provided, however, if such vacancy occurs within 12 months of the expiration of the term of that office, the city council or those 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.

SECTION 5.15.

Other provisions.

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

SECTION 5.16.

Removal of officers.

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

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

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

(2) By an order of the Superior Court of Cobb County following a hearing on a complaint seeking such removal brought by any resident of the City of Mableton.

ARTICLE VI

FINANCE

SECTION 6.10.

Property tax.

The city council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city 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 city 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 city council in its discretion.

888 **SECTION 6.11.**

889 Millage rate; due dates; payment methods.

890 The city council, by ordinance, shall establish a millage rate for the city property tax, a due
891 date, and the time period within which these taxes must be paid. The city council, by
892 ordinance, may provide for the payment of these taxes by two installments or in one lump
893 sum, as well as authorize the voluntary payment of taxes prior to the time when due.

894 **SECTION 6.12.**

895 Occupation and business taxes.

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

900 **SECTION 6.13.**

901 Regulatory fees; permits.

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

SECTION 6.14.

Franchises.

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

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

SECTION 6.15.

Service charges.

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

931 **SECTION 6.16.**

932 Special assessments.

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

937 **SECTION 6.17.**

938 Construction; other taxes and fees.

939 This city shall be empowered to levy any other tax or fee allowed now or hereafter by law,
940 and the specific mention of any right, power, or authority in this article shall not be construed
941 as limiting in any way the general powers of this city to govern its local affairs.

942 **SECTION 6.18.**

943 Collection of delinquent taxes and fees.

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

951 **SECTION 6.19.**

952 General obligation bonds.

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

957 **SECTION 6.20.**

958 Revenue bonds.

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

962 **SECTION 6.21.**

963 Short-term loans.

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

966 **SECTION 6.22.**

967 Lease-purchase contracts.

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

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

975 **SECTION 6.23.**

976 Fiscal year.

977 The city council shall set the fiscal year by ordinance. This fiscal year shall constitute the
978 budget year and the year for financial accounting and reporting of each and every office,
979 department, agency, and activity of the city government unless otherwise provided by state
980 or federal law.

981 **SECTION 6.24.**

982 Preparation of budgets.

983 The city council shall provide an ordinance on the procedures and requirements for the
984 preparation and execution of an annual operating budget, a capital improvement plan, and
985 a capital budget, including requirements as to the scope, content, and form of such budgets
986 and plans.

987 **SECTION 6.25.**

988 Submission of operating budget to city council.

989 On or before a date fixed by the city council but not later than 30 days prior to the beginning
990 of each fiscal year, the mayor or, in the case where the city council has appointed a city
991 manager, the city manager, shall submit to the city council a proposed operating budget for

992 the ensuing fiscal year. The budget shall be accompanied by a message from the mayor or
993 city manager, as the case may be, containing a statement of the general fiscal policies of the
994 city, the important features of the budget, explanations of major changes recommended for
995 the next fiscal year, a general summary of the budget, and such other pertinent comments and
996 information. The operating budget and the capital budget hereinafter provided for, the
997 budget message, and all supporting documents shall be filed in the office of the city clerk and
998 shall be open to public inspection.

999 **SECTION 6.26.**

1000 Action by city council on budget.

1001 (a) The city council may amend the operating budget proposed by the mayor or the city
1002 manager, as the case may be; except, that the budget as finally amended and adopted must
1003 provide for all expenditures required by state law or by other provisions of this charter and
1004 for all debt service requirements for the ensuing fiscal year, and the total appropriations from
1005 any fund shall not exceed the estimated fund balance, reserves, and revenues.

1006 (b) The city council by ordinance shall adopt the final operating budget for the ensuing fiscal
1007 year not later than 15 days prior to the beginning of such fiscal year. If the city council fails
1008 to adopt the budget by this date, the amounts appropriated for operation for the current fiscal
1009 year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all
1010 items prorated accordingly until such time as the city council adopts a budget for the ensuing
1011 fiscal year. Adoption of the budget shall take the form of an appropriations ordinance setting
1012 out the estimated revenues in detail by sources and making appropriations according to fund
1013 and by organizational unit, purpose, or activity as set out in the budget preparation ordinance
1014 adopted pursuant to Section 6.24 of this charter.

1015 (c) The amount set out in the adopted operating budget for each organizational unit shall
1016 constitute the annual appropriation for such, and no expenditure shall be made or

1017 encumbrance created in excess of the otherwise unencumbered balance of the appropriations
1018 or allotment thereof, to which it is chargeable.

1019 **SECTION 6.27.**

1020 Tax levies.

1021 The city council shall levy by ordinance such taxes as are necessary. The taxes and tax rates
1022 set by such ordinances shall be such that reasonable estimates of revenues from such levy
1023 shall at least be sufficient, together with other anticipated revenues, fund balances, and
1024 applicable reserves, to equal the total amount appropriated for each of the several funds set
1025 forth in the annual operating budget for defraying the expenses of the general government
1026 of this city.

1027 **SECTION 6.28.**

1028 Changes in appropriations.

1029 The city council by ordinance may make changes in the appropriations contained in the
1030 current operating budget, at any regular, special, or emergency meeting called for such
1031 purpose, but any additional appropriations may be made only from an existing unexpended
1032 surplus.

1033 **SECTION 6.29.**

1034 Capital budget.

1035 (a) On or before the date fixed by the city council but no later than 30 days prior to the
1036 beginning of each fiscal year, the mayor or, in the case where the city council has appointed
1037 a city manager, the city manager, shall submit to the city council a proposed capital

1038 improvements plan with a recommended capital budget containing the means of financing
1039 the improvements proposed for the ensuing fiscal year. The city council shall have power
1040 to accept, with or without amendments, or reject the proposed plan and proposed budget.
1041 The city council shall not authorize an expenditure for the construction of any building,
1042 structure, work, or improvement, unless the appropriations for such project are included in
1043 the capital budget, except to meet a public emergency as provided in Section 2.24 of this
1044 charter.

1045 (b) The city council shall adopt by ordinance the final capital budget for the ensuing fiscal
1046 year not later than 15 days prior to the beginning of such fiscal year. No appropriation
1047 provided for in a prior capital budget shall lapse until the purpose for which the appropriation
1048 was made shall have been accomplished or abandoned; provided, however, the mayor or the
1049 city manager, as the case may be, may submit amendments to the capital budget at any time
1050 during the fiscal year, accompanied by recommendations. Any such amendments to the
1051 capital budget shall become effective only upon adoption by ordinance.

1052 **SECTION 6.30.**

1053 **Independent audit.**

1054 There shall be an annual independent audit of all city accounts, funds, and financial
1055 transactions by a certified public accountant selected by the city council. The audit shall be
1056 conducted according to generally accepted auditing principles. Any audit of any funds by
1057 the state or federal governments may be accepted as satisfying the requirements of this
1058 charter. Copies of annual audit reports shall be available at printing costs to the public.

SECTION 6.31.

Contracting procedures.

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

(1) It is in writing;

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

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

SECTION 6.32.

Centralized purchasing.

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

SECTION 6.33.

Sale and lease of city property.

The city council may sell and convey, or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law.

ARTICLE VII**GENERAL PROVISIONS****SECTION 7.10.**

Bonds for officials.

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

SECTION 7.11.

Construction.

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

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

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

SECTION 7.12.

Qualified electors.

(a) For the purposes of the referendum election provided for in Section 7.13 of this charter and for the purposes of the special election to be held in conjunction with the 2022 general primary, the qualified electors of the City of Mableton shall be those qualified electors of Cobb County residing within the proposed corporate boundaries of the City of Mableton as described by Appendix A of this charter. At subsequent municipal elections, the qualified

1096 electors of the City of Mableton shall be determined pursuant to the authority of Chapter 2
1097 of Title 21 of the O.C.G.A., the "Georgia Election Code."

1098 (b) Only for the purpose of holding and conducting the referendum election provided for by
1099 Section 7.13 of this charter and only for the purpose of holding and conducting the special
1100 election of the City of Mableton to be held in conjunction with the 2022 general primary, the
1101 election superintendent of Cobb County is vested with the powers and duties of the election
1102 superintendent of the City of Mableton and the powers and duties of the governing authority
1103 of the City of Mableton.

1104 **SECTION 7.13.**

1105 **Referendum.**

1106 The election superintendent of Cobb County shall call a special election for the purpose of
1107 submitting this Act to the qualified voters of the proposed City of Mableton, as provided in
1108 Section 7.12 of this charter, for approval or rejection. The superintendent shall set the date
1109 of such election for the Tuesday next following the first Monday in November, 2022. The
1110 superintendent shall issue the call for such election at least 30 days prior to the date thereof.
1111 The superintendent shall cause the date and purpose of the election to be published once a
1112 week for two weeks immediately preceding the date thereof in the official organ of Cobb
1113 County. The ballot shall have written or printed thereon the words:

1114 "() YES Shall the Act incorporating the City of Mableton in Cobb County, imposing
1115 () NO term limits, prohibiting conflicts of interest, and creating community
improvement districts be approved?"

1116 All persons desiring to vote for approval of the Act shall vote "Yes," and those persons
1117 desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes
1118 cast on such question are for approval of the Act, it shall become of full force and effect;
1119 otherwise, it shall thereafter be void and of no force and effect. The expense of the special

1120 election set forth in this section shall be borne by Cobb County. It shall be the duty of the
1121 superintendent to hold and conduct such election. It shall be his or her further duty to certify
1122 the result thereof to the Secretary of State.

1123 **SECTION 7.14.**

1124 Effective dates.

1125 (a) Those provisions of this charter necessary for the special election provided for in
1126 Section 7.13 of this charter shall become effective immediately upon this Act's approval by
1127 the Governor or upon its becoming law without such approval.

1128 (b) Those provisions of this Act necessary for the special election to be held on the Tuesday
1129 of the twenty-fourth week prior to the 2022 November general election in conjunction with
1130 the general primary shall be effective upon the certification of the results of the referendum
1131 election provided for by Section 7.13 of this charter, if this Act is approved at such
1132 referendum election.

1133 (c) The remaining provisions of this Act shall become of full force and effect for all
1134 purposes on January 1, 2023, except that the initial mayor and councilmembers shall take
1135 office immediately following their election and by action of a quorum may prior to
1136 January 1, 2023, meet and take actions binding on the city.

1137 **SECTION 7.15.**

1138 Transition.

1139 (a) A period of time will be needed for an orderly transition of various government functions
1140 from Cobb County to the City of Mableton. Accordingly, there shall be a transition period
1141 beginning on January 1, 2023, and ending at midnight on the last day of the twenty-fourth

1142 month following such date. During such transition period, all provisions of this charter shall
1143 be effective as law, but not all provisions of this charter shall be implemented.

1144 (b) During such transition period, Cobb County shall provide within the territorial limits of
1145 the City of Mableton all government services and functions which Cobb County provided
1146 in such area which is now within the corporate limits of the City of Mableton during 2022
1147 and at the same actual cost, except to the extent otherwise provided in this section; provided,
1148 however, that upon at least 30 days' prior written notice to Cobb County by the City of
1149 Mableton, responsibility for any such service or function shall be transferred to the City of
1150 Mableton. Beginning on January 1, 2023, the City of Mableton shall collect taxes, fees,
1151 assessments, fines and forfeitures, and other moneys within the territorial limits of the City
1152 of Mableton; provided, however, that upon at least 30 days' prior written notice to Cobb
1153 County by the City of Mableton, the authority to collect any tax, fee, assessment, fine or
1154 forfeiture, or other moneys shall remain with Cobb County after January 1, 2023, until such
1155 time as Cobb County receives subsequent notice from the City of Mableton that such
1156 authority shall be transferred to the City of Mableton.

1157 (c) During the transition period, the governing authority of the City of Mableton:

1158 (1) Shall hold regular meetings and may hold special meetings as provided in this
1159 charter;

1160 (2) May enact ordinances and resolutions as provided in this charter;

1161 (3) May amend this charter by home rule action as provided by general law;

1162 (4) May accept gifts and grants;

1163 (5) May borrow money and incur indebtedness to the extent authorized by this charter
1164 and general law;

1165 (6) May levy and collect an ad valorem tax for calendar years 2023 and 2024;

1166 (7) May establish a fiscal year and budget;

1167 (8) May create, alter, or abolish departments, boards, offices, commissions, and agencies
1168 of the city; appoint and remove officers and employees; and exercise all necessary or
1169 appropriate personnel and management functions; and

1170 (9) May generally exercise any power granted by this charter or general law, except to
1171 the extent that a power is specifically and integrally related to the provision of a
1172 governmental service, function, or responsibility not yet provided or carried out by the
1173 city.

1174 (d) Except as otherwise provided in this section, during the transition period, the Municipal
1175 Court of the City of Mableton shall not exercise its jurisdiction. During the transition period,
1176 all ordinances of Cobb County shall be applicable within the territorial limits of the City of
1177 Mableton and the appropriate court or courts of Cobb County shall retain jurisdiction to
1178 enforce such ordinances. However, by appropriate agreement (and concurrent resolutions
1179 and ordinances if needed) Cobb County and the City of Mableton may during the transition
1180 period transfer all or part of such regulatory authority and the appropriate court jurisdiction
1181 to the City of Mableton. Any transfer of jurisdiction to the City of Mableton during or at the
1182 end of the transition period shall not in and of itself abate any judicial proceeding pending
1183 in Cobb County or the pending prosecution of any violation of any ordinance of Cobb
1184 County.

1185 (e) During the transition period, the governing authority of the City of Mableton may at any
1186 time, without the necessity of any agreement by Cobb County, commence to exercise its
1187 planning and zoning powers; provided, however, that the city shall give the county notice of
1188 the date on which the city will assume the exercise of such powers. Upon the governing
1189 authority of the City of Mableton commencing to exercise its planning and zoning powers,
1190 the Municipal Court of the City of Mableton shall immediately have jurisdiction to enforce
1191 the planning and zoning ordinances of the city. The provisions of this subsection shall
1192 control over any conflicting provisions of any other subsection of this section.

1193 (f) During the transition period, all business licenses and permits which were previously
1194 issued by Cobb County shall continue to be effective for the term for which such licenses and
1195 permits were originally issued.

1196 (g) Effective upon the termination of the transition period, subsections (b) through (f) of this
1197 section shall cease to apply except for the last sentence of subsection (d) which shall remain
1198 effective. Effective upon the termination of the transition period, the City of Mableton shall
1199 be a full-functioning municipal corporation and subject to all general laws of this state.

1200 (h) The City of Mableton shall be a successor in interest to all intergovernmental agreements
1201 which affect the territory contained within the corporate limits of the city which are in
1202 existence at the time the city is the created.

1203 (i) During the transition period, all existing zoning and land use provisions shall remain in
1204 effect, and all valid, existing licenses issued previously to businesses operating in the
1205 corporate limits of the City of Mableton by Cobb County shall continue in force and effect
1206 until their expiration.

1207 **SECTION 7.16.**

1208 Directory nature of dates.

1209 It is the intention of the General Assembly that this Act be construed as directory rather than
1210 mandatory with respect to any date prescribed in this Act. If it is necessary to delay any
1211 action called for in this Act for providential cause or any other reason, it is the intention of
1212 the General Assembly that the action be delayed rather than abandoned. Any delay in
1213 performing any action under this Act, whether for cause or otherwise, shall not operate to
1214 frustrate the overall intent of this Act. Without limiting the generality of the foregoing it is
1215 specifically provided that:

1216 (1) If it is not possible to hold the referendum election provided for in Section 7.13 of
1217 this Act on the date specified in that section, then such referendum shall be held as soon
1218 thereafter as is reasonably practicable; and

1219 (2) If it is not possible to hold the first municipal election provided for in this Act on the
1220 date specified in that section, then there shall be a special election for the initial members
1221 of the governing authority to be held as soon thereafter as is reasonably practicable, and
1222 the commencement of the initial terms of office shall be delayed accordingly.

1223 **ARTICLE VIII**

1224 **COMMUNITY IMPROVEMENT DISTRICTS**

1225 **SECTION 8.10.**

1226 **Purpose.**

1227 The purpose of this article shall be to provide enabling legislation for the creation of one or
1228 more community improvement districts within the City of Mableton, and such district or
1229 districts may be created for the provision of some or all of the following governmental
1230 services and facilities as provided and authorized by Article IX, Section VII of the
1231 Constitution of the State of Georgia and the resolution activating each district as it now exists
1232 or hereafter amended or supplemented as provided for by law, including, but not limited to:

1233 (1) Street and road construction and maintenance, including curbs, sidewalks, street
1234 lights, and devices and services to control the flow of traffic on streets and roads;

1235 (2) Parks and recreational areas and facilities;

1236 (3) Public transportation;

1237 (4) Terminal and dock facilities and parking facilities; and

1238 (5) Such other services and facilities as may be provided for by general law.

SECTION 8.11.**Definitions.**

As used in this article, the term:

(1) "Agricultural" means the growing of crops for sale or the raising of animals for sale or use, including the growing of field crops, fruit or nut trees, the raising of livestock or poultry, and the operation of dairies, horse boarding facilities, and riding stables.

(2) "Board" means the governing body created for the governance of a community improvement district herein authorized.

(3) "Caucus of electors" or "caucus" means the meeting of electors hereinafter provided for at which the elected board members of the district are elected. A quorum at such caucus shall consist of those electors present, and a majority of those present and voting is necessary to elect board members. No proxy votes shall be cast.

(4) "City council" means the city council of the City of Mableton.

(5) "City governing authority or body" means the city council and the mayor.

(6) "District" means the geographical area designated as such by the resolution of the governing body of the City of Mableton consenting to the creation of the community improvement district or districts or as thereafter modified by any subsequent resolution of the governing body or bodies within which the district is or is to be located, or a body corporate and politic being a community improvement district created and activated pursuant hereto, as the context requires or permits.

(7) "Electors" means the owners of real property within the given district which is subject to taxes, fees, and assessments levied by the board, as they appear on the most recent ad valorem real property tax return records of Cobb County, or one officer or director of a corporate elector, one trustee of a trust which is an elector, one partner of a partnership elector, or one designated representative of an elector whose designation is made in writing to the respective county tax commissioner and the city clerk of the City

of Mableton at least ten days prior to an election. An owner of property that is subject to taxes, fees, or assessments levied by the board shall have one vote for an election based on numerical majority. An owner of multiple parcels shall have one vote, not one vote per parcel, for an election based on numerical majority. Multiple owners of one parcel shall have one vote for an election based on numerical majority which must be cast by one of their number who is designated in writing.

(8) "Equity electors" means electors who cast votes equal to each \$1,000.00 value of all owned real property within the given district which is then subject to taxes, fees, and assessments levied by the board. Value of real property shall be the assessed value.

(9) "Forestry" means the planting and growing of trees for sale in a program which includes reforestation of harvested trees, regular underbrush and undesirable growth clearing, fertilizing, pruning, thinning, cruising, and marking which indicate an active tree farming operation. The term does not include the casual growing of trees on land otherwise idle or held for investment, even though some harvesting of trees may occur thereon.

(10) "Hereby," "herein," "hereunder," and "herewith" mean under this Act.

(11) "Mayor" means the mayor of the City of Mableton.

(12) "Project" means the acquisition, construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements, including operation of facilities or other improvements, located or to be located within or otherwise providing service to the district and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvements for the purposes set forth in Section 8.10 of this article.

(13) "Property owner" or "owner of real property" means any entity or person shown as a taxpayer for one or more parcels of real estate on the most recent ad valorem tax

1292 records of Cobb County within the district as certified by the Cobb County Tax
1293 Commissioner.

1294 (14) "Property used nonresidentially" means property or any portion thereof used for
1295 neighborhood shopping, planned shopping centers, general commercial, transient lodging
1296 facilities, tourist services, office or institutional, office services, light industry, heavy
1297 industry, central business district, parking, or other commercial or business use or vacant
1298 land zoned or approved for any of the aforementioned uses which do not include
1299 residential.

1300 (15) "Residential" means a specific structure, work, or improvement undertaken
1301 primarily to provide either single family or multifamily dwelling accommodations for
1302 persons and families of four units or less, and for which an application for homestead
1303 exemption has been filed and accepted.

1304 (16) "Taxpayer" means an entity or person paying ad valorem taxes on real property,
1305 whether on one or more parcels of property within the district. Multiple owners of one
1306 parcel shall constitute one taxpayer and shall designate in writing one of their number to
1307 represent the whole.

1308 (17) "Value" or "assessed value" of property means the values established in the most
1309 recent ad valorem tax reassessment of such properties certified by the Cobb County
1310 Board of Tax Assessors.

1311 **SECTION 8.12.**

1312 Creation.

1313 Pursuant to Article IX, Section VII of the Constitution of the State of Georgia, there is
1314 created one or more community improvement districts to be located in the City of Mableton,
1315 Georgia, wholly within the incorporated area thereof, which shall be activated upon
1316 compliance with the conditions set forth in this section. Each district, if more than one are

1317 implemented, shall be governed as directed by this article. The conditions for such activation
1318 shall be:

1319 (1) The adoption of a resolution consenting to the creation of the community
1320 improvement district or districts by the governing authority for the City of Mableton and
1321 imposing such conditions on the projects and activities which may be undertaken as will
1322 ensure their compatibility with adopted city policies and planning for the area; and

1323 (2) The written consent to the creation of the community improvement district by:

1324 (A) A majority of the owners of real property within the given district which will be
1325 subject to taxes, fees, and assessments levied by the board of the given district; and

1326 (B) The owners of real property within the given district which constitutes at
1327 least 75 percent by value of all real property within the district which will be subject to
1328 taxes, fees, and assessments levied by the board. For this purpose, value shall be
1329 determined by the most recent approved county ad valorem tax digest.

1330 The written consent provided for in this paragraph shall be submitted to the Cobb County
1331 tax commissioner, who shall certify whether subparagraphs (A) and (B) of this paragraph
1332 have been satisfied with respect to such proposed district. The district or districts or
1333 respective board or boards created under this article shall not transact any business or
1334 exercise any powers under this article until the foregoing conditions are met. A copy of
1335 such resolutions shall be filed with the Secretary of State and with the city clerk of the
1336 City of Mableton, who shall each maintain a record of the district activated under this
1337 article. Nothing contained herein shall limit the ability of the governing authority of the
1338 City of Mableton to implement more than one community improvement district so long
1339 as the requirements hereof and of the Constitution of the State of Georgia are satisfied.
1340 The provisions of this article shall be construed so as to provide for the independent
1341 application and exercise of all powers for each district contained herein including the
1342 ability to levy taxes as outlined herein as separately and independently authorizing and
1343 empowering such separate community improvement districts created hereby. Nothing

1344 contained herein shall require the governing authority of the City of Mableton to create
1345 more than one community improvement district, or to require the creation of a new
1346 district if the district boundaries of an existing district are changed, added to,
1347 supplemented, or modified.

1348 **SECTION 8.13.**

1349 Administration, appointment, and election of board members.

1350 Each district created pursuant hereto shall be administered either by the governing authority
1351 or by a board as prescribed under this article. In the event that a district is to be governed by
1352 such a board, the board shall be composed of a minimum of seven board members to be
1353 appointed and elected as hereinafter provided:

1354 (1) Two board members shall be appointed by the Mayor of the City of Mableton, and
1355 confirmed by a majority of the city council, one of whom shall be a member of the city
1356 council, to serve in Posts 6 and 7. Two board members shall be elected by the vote of
1357 electors, and three members shall be elected by the vote of equity electors. The members
1358 representing the electors and equity electors shall be elected to serve in post positions 1
1359 through 5, respectively. Each elected board member shall receive a majority of the votes
1360 cast for the post for which he or she is a candidate. Votes for Posts 1 and 2 shall be cast
1361 by electors, and votes for Posts 3, 4, and 5 shall be cast by the equity electors. The initial
1362 term of office for the members representing Posts 1 and 3 shall be one year. The initial
1363 term of office for the members representing Posts 2 and 5 shall be two years, and the
1364 initial term of office of the members representing Post 3 shall be three years. Thereafter,
1365 all terms of office shall be for four years, except the appointed board members who shall
1366 serve at the pleasure of the appointing body which appointed him or her. Elected board
1367 members shall be subject to recall in the same manner as elected.

(2) The initial board members to be elected as provided in paragraph (1) of this section shall be elected in a caucus of electors which shall be held within 120 days after the adoption of the resolution by the City of Mableton consenting to the creation of the district, and the obtaining of the written consents herein provided at such time and place within the district as the City of Mableton shall designate after notice thereof shall have been given to said electors by publishing same in the legal organ of Cobb County as hereinafter provided. Thereafter, there shall be conducted annually, not later than 120 days following the last day for filing ad valorem real property tax returns in Cobb County, a caucus of said electors at such time and place within the district as the board shall designate in such notice for the purpose of electing board members to those board member positions whose terms expire or are vacant. If a vacancy occurs in an elected position on the board, the board shall, within 60 days thereof, call a special election to fill the same to be held within 60 days of the call unless such vacancy occurs within 180 days of the next regularly scheduled election, in which case a special election may, but need not, be called. For any election held hereunder, notice thereof shall be given to said electors by publishing notice thereof in the legal organ of Cobb County at least once each week for four weeks prior to such election.

(3) Board members shall receive no compensation for their services, but shall be reimbursed for actual expenses reasonably incurred in the performance of their duties. They shall elect one of their number as chairperson and another as vice chairperson. They shall also elect a secretary and a treasurer, or a secretary/treasurer, either of whom may, but need not, be a member of the board or an elector.

(4) If the boundaries of a district are subsequently changed after creation of the district to include land within the unincorporated area of the county or a municipality which was not a party to the creation of the district, or if a municipality's boundaries are changed to include land within an existing district, the governing authority of the municipality shall acquire the right to appoint a member to the board of the district upon entering into the

cooperation agreement provided for in Section 8.17 of this article. If, by municipal annexation or by deannexation of land from a district, the district no longer includes land within the incorporated area of the City of Mableton or within a municipality, respectively, then the board member of the district appointed by such governing authority in which the district is no longer located shall cease to be a board member.

(5) Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code," shall not apply to the election of district board members. Should a vacancy in office of a district board member occur, and the regular caucus of electors is more than six months in the future, a special election shall be called to fill such vacancy, unless it is filled by appointment as hereinabove required. The district board may adopt such bylaws not inconsistent herewith to provide for any matter concerning such elections.

SECTION 8.14.

Taxes, fees, and assessments.

(a) The board may levy taxes, fees, and assessments within the district only on real property used nonresidentially, specifically excluding all property exempt from ad valorem taxation under the Constitution or laws of the State of Georgia; all property used for residential, agricultural, or forestry purposes; and all tangible personal property and intangible property. Any tax, fee, or assessment so levied shall not exceed 2.5 percent of the aggregate assessed value of all such real property, subject to such limitations as the governing authority for the City of Mableton may implement with the adoption of the resolution consenting to the creation of said district. The taxes, fees, and assessments levied by the board shall be equitably apportioned among the properties subject to such taxes, fees, and assessments according to the need for governmental services and facilities created by the degree of density of development of each such property. The proceeds of taxes, fees, and assessments levied by the board shall be used only for the purpose of providing those governmental

1420 services and facilities set forth in Section 8.10 of this article which are specially required by
1421 the degree of density of development within the district and not for the purpose of providing
1422 those governmental services and facilities provided to the municipality as a whole. Any tax,
1423 fee, or assessment so levied shall be collected by the City of Mableton in the same manner
1424 as taxes, fees, and assessments are levied by the City of Mableton. Delinquent taxes shall
1425 bear the same interest and penalties as City of Mableton ad valorem taxes and may be
1426 enforced and collected in the same manner. The proceeds of taxes, fees, and assessments so
1427 levied, less a fee to cover the costs of collection of 0.25 percent thereof, but not more than
1428 \$10,000.00 in any one calendar year, shall be transmitted as soon as they are acquired by the
1429 City of Mableton to the board, and shall be expended by the board only for the purposes
1430 authorized hereby.

1431 (b) The board shall levy the taxes provided for in subsection (a) of this section subsequent
1432 to the report of the assessed taxable values for the current calendar year and notify in writing
1433 the collecting governing bodies so they may include the levy on their regular ad valorem tax
1434 bills, if possible.

1435 (c) There shall be a segregation of all funds from the levy of taxes, fees, and assessments as
1436 described hereunder for the district, and neither the City of Mableton nor the respective
1437 county tax commissioner shall expend for any purpose not authorized by the board of this
1438 district any such taxes, fees, or charges assessed and collected hereunder except for such
1439 costs as may be attributed to the billing and collection of such fees, levies, and assessments.

1440 (d) If, but for this provision, a parcel of real property is removed from a district or otherwise
1441 would become nontaxable, it shall continue to bear the tax millage levied by the district then
1442 extant upon such parcel for indebtedness of the district then outstanding until said
1443 indebtedness is paid or refunded.

SECTION 8.15.**Boundaries of the district.**

(a) The boundaries of the district or districts shall be as designated as such by the City of Mableton as set forth in the resolution required in Section 8.12 of this article, or as may thereafter be added as hereinafter provided.

(b) The boundaries of the district or districts may be increased after the initial creation of a district if:

(1) Written consent of the owners of any real property sought to be annexed is first obtained;

(2) The board of the district adopts a resolution consenting to the annexation; and

(3) A resolution is adopted which grants consent to the annexation by the governing authority of such municipalities as may have area within the district before or after the annexation.

SECTION 8.16.**Debt.**

Except as otherwise provided in this section, the district may incur debt without regard to the requirements of Article IX, Section V of the Constitution of the State of Georgia, which debt shall be backed by the full faith and credit and taxing power of the district but shall not be an obligation of the State of Georgia or any other unit of government of the State of Georgia other than the district; provided, however, that the board and the district may not issue bonds validated under or in accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A., known as the "Revenue Bond Law," or in accordance with such other successor provisions governing bond validation generally or as may be provided by law.

SECTION 8.17.

Cooperation with local governments.

The services and facilities provided pursuant hereto may be provided for in a cooperation agreement executed jointly by the board, the governing body of the City of Mableton, and any municipalities and other governmental authorities or agencies within which the district is partially located. The provisions of this section shall in no way limit the authority of the City of Mableton or any such municipality or any such authority to provide services or facilities within the district; and the City of Mableton or such municipalities shall retain full and complete authority and control over any of its facilities located within its respective areas of any district. Said control shall include, but not be limited to, the modification of, access to, and degree and type of services provided through or by facilities of the municipality or county. Nothing contained in this section shall be construed to limit or preempt the application of any governmental laws, ordinances, resolutions, or regulations to the district or the services or facilities provided therein.

SECTION 8.18.

Powers.

(a) The district and the board created pursuant hereto shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions hereof, including, without limiting the generality of the foregoing, the power to:

(1) Bring and defend actions;

(2) Adopt and amend a corporate seal;

(3) Make and execute contracts, agreements, and other instruments necessary or convenient to exercise the powers of the board or to further the public purposes for which the district is created including, but not limited to, contracts for construction of projects,

1491 leases of projects, contracts for sale of projects, agreements for loans to finance projects,
1492 contracts with respect to the use of projects, and agreements with other jurisdictions or
1493 community improvement districts regarding multijurisdictional projects or services or for
1494 other cooperative endeavors to further the public purposes of the district;

1495 (4) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real and
1496 personal property of every kind and character, or any interest therein, in furtherance of
1497 the public purposes of the district;

1498 (5) Finance by loan, private grant, lease, or otherwise, construct, erect, assemble,
1499 purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend,
1500 improve, install, sell, equip, expand, add to, operate, or manage projects and to pay the
1501 cost of any project from the proceeds of the district or any other funds of the district, or
1502 from any contributions or loans by persons, corporations, partnerships, whether limited
1503 or general, or other entities, all of which the board is authorized to receive, accept, and
1504 use;

1505 (6) Borrow money to further or carry out its public purposes and to execute bonds, notes,
1506 other obligations, leases, trust indentures, trust agreements, agreements for the sale of its
1507 notes, or other obligations, loan agreements, security agreements, assignments, and such
1508 other agreements or instruments as may be necessary or desirable, in the judgment of the
1509 board, to evidence and to provide security for such borrowing;

1510 (7) Issue notes or other obligations of the district and use the proceeds thereof for the
1511 purpose of paying all or any part of the cost of any project and otherwise to further or
1512 carry out the public purposes of the district and to pay all reasonably incurred costs of the
1513 board incidental to, or necessary and appropriate to, furthering or carrying out such
1514 purposes; provided, however, that the board and the district may not issue bonds
1515 validated under or in accordance with Article 3 of Chapter 82 of Title 36 of the O.C.G.A.,
1516 known as the "Revenue Bond Law," or in accordance with such other successor
1517 provisions governing bond validation generally or as may be provided by law;

- 1518 (8) Make application directly or indirectly to any private source for loans, grants,
1519 guarantees, or other financial assistance in furtherance of the district's public purposes
1520 and to accept and use the same upon such terms and conditions as are prescribed by such
1521 private source; provided, however, that the district and the board shall not have the power
1522 to apply for, receive, administer, or utilize grants from federal, state, county, or municipal
1523 governments or agencies or any other public sources;
- 1524 (9) Enter into agreements with the federal government or any agency thereof to use the
1525 facilities or services of the federal government or any agency thereof in order to further
1526 or carry out the public purposes of the district;
- 1527 (10) Contract for any period, not exceeding 50 years, with the State of Georgia, state
1528 institutions, or any municipal corporation, county, or political subdivision of this state for
1529 the use by the district of any facilities or services of the state or any such state institution,
1530 municipal corporation, county, or political subdivision of this state, or for the use by any
1531 state institution or any municipal corporation, county, or political subdivision of this state
1532 of any facilities or services of the district, provided that such contracts shall deal with
1533 such activities and transactions as the district and any such political subdivision with
1534 which the district contracts are authorized by law to undertake;
- 1535 (11) Grant, mortgage, convey, assign, or pledge its property, revenues or taxes, or fees
1536 or assessments to be received as security for its notes, or other indebtedness and
1537 obligations;
- 1538 (12) Receive and use the proceeds of any tax levied by any county or any municipal
1539 corporation to pay the costs of any project or for any other purpose for which the board
1540 may use its own funds pursuant hereto;
- 1541 (13) Receive and administer gifts, private grants, and devises of money and property of
1542 any kind and to administer trusts;
- 1543 (14) Use any real property, personal property, or fixtures or any interest therein or to rent
1544 or lease such property to or from others or make contracts with respect to the use thereof

or to sell, lease, exchange, transfer, assign, pledge, or otherwise dispose of or grant options for any such property in any manner as it deems to be the best advantage of the district and the public purposes thereof;

(15) Appoint, select, and employ engineers, surveyors, architects, urban or city planners, fiscal agents, attorneys, and others and to fix their compensation and pay their expenses;

(16) Encourage and promote the improvement and development of the district and to make, contract for, or otherwise cause to be made long range plans or proposals for the district in cooperation with the City of Mableton and any municipal corporations in which the district is wholly or partially located;

(17) Invest its funds, whether derived from the issuance of its bonds or otherwise, in such manner as it may deem prudent and appropriate, without further restriction;

(18) Adopt bylaws governing the conduct of business by the board, the election and duties of officers of the board, and other matters which the board determines to deal within its bylaws;

(19) Exercise any power granted by the laws of this state to public or private corporations which is not in conflict with the public purposes of the district; and

(20) Do all things necessary or convenient to carry out the powers conferred hereby.

(b) The powers enumerated in subsection (a) of this section are cumulative of and in addition to those powers enumerated herein and elsewhere in this article, and no such power limits or restricts any other power of the board except where expressly noted.

SECTION 8.19.

Construction; notice, proceeding, publication, referendum.

This article shall be liberally construed to effect the purposes hereof. No notice, proceeding, or publication except those required hereby shall be necessary to the performance of any act authorized hereby, nor shall any such act be subject to referendum.

SECTION 8.20.

Applicability of Chapter 5 of Title 10 of the O.C.G.A.,
the "Georgia Securities Act of 1973."

The offer, sale, or issuance of notes or other obligations by the district shall not be subject to regulation under Chapter 5 of Title 10 of the O.C.G.A., the "Georgia Securities Act of 1973."

SECTION 8.21.

Dissolution.

(a) A district activated under the provisions of this article may be dissolved upon the occurrence of any of the following:

(1) The adoption of a resolution approving of the dissolution of the community improvement district by the City of Mableton and such other municipalities, as applicable, if partially within one or more municipalities; or

(2) The written consent to the dissolution of the community improvement district by:

(A) A majority of the owners of real property within the district subject to taxes, fees, and assessments levied by the board of the district; or

(B) The owners of real property constituting at least 75 percent by value of all real property within the district subject to taxes, fees, and assessments levied by the board. For this purpose, value shall be determined by the most recent approved county ad valorem tax digest.

The written consent provided for in this paragraph shall be submitted to the Cobb County tax commissioner, who shall certify whether subparagraphs (A) and (B) of this paragraph have been satisfied with respect to the proposed district dissolution.

1593 (b) In the event that successful action is taken pursuant to this section to dissolve the district,
1594 the dissolution shall become effective at such time as all debt obligations of the district have
1595 been satisfied. Following a successful dissolution action and until the dissolution becomes
1596 effective, no new projects may be undertaken, obligations or debts incurred, or property
1597 acquired.

1598 (c) Upon a successful dissolution action, all noncash assets of the district other than public
1599 facilities or land or easements to be used for such public facilities, as described in
1600 Section 8.10 of this article, shall be reduced to cash and, along with all other cash on hand,
1601 shall be applied to the repayment of any debt obligation of the district. Any cash remaining
1602 after all outstanding obligations are satisfied shall be refunded to each property owner in
1603 direct proportion to the total amount in taxes, fees, or assessments paid by the property owner
1604 relative to the total revenues paid by all properties in the district.

1605 (d) When a dissolution becomes effective, the municipal governing authority shall take title
1606 to all property previously in the ownership of the district and all taxes, fees, and assessments
1607 of the district shall cease to be levied and collected.

1608 (e) A district may be reactivated in the same manner as an original activation.

APPENDIX A

Corporate Boundaries of the City of Mableton

The City of Mableton shall include all the territory embraced within the following census blocks based upon the 2010 United States decennial census:

Plan: Mableton-Corp-2019

Plan Type: Local

Administrator: HD039

User: bak

District SOUTHCOBB

Cobb County

VTD: 067BR02 - BIRNEY 02

VTD: 067BT01 - BRYANT 01

VTD: 067BT02 - BRYANT 02

VTD: 067CO01 - COOPER 01

031405:

5009 5010 5011 5012 5013 5014 5015 5020

031409:

1000 1001

031507:

2012 2013 2015

VTD: 067HL01 - HARMONY-LELAND

VTD: 067LI01 - LINDLEY 01

VTD: 067MA01 - MABLETON 01

VTD: 067MA02 - MABLETON 02

1633 VTD: 067MA03 - MABLETON 03
1634 VTD: 067MA04 - MABLETON 04
1635 031206:
1636 1056 1082
1637 031307:
1638 1000 1003 1006 3007 3008 3009 3010 3011 3012 3013 3014 3015
1639 3016 3017 3018 3019 3020 3021 3022 3023 3024 3025 3026 3027
1640 3028 3029 3030 3031 3032 3033 3037 3040 3044 3046 3048 3049
1641 3050 3051 3052 3053 3054 3055 3057 3058
1642 VTD: 067NP01 - NORTON PARK 01
1643 031106:
1644 2027 2028
1645 031117:
1646 1025 1026 2025 2026
1647 VTD: 067NP02 - NORTON PARK 02
1648 031117:
1649 3003 3004 3005 3006 3007 3008 3009 3010 3011 3012 3013 3014
1650 3015 3016
1651 VTD: 067OR02 - OREGON 02
1652 031405:
1653 5000 5001 5002 5003 5004 5005 5006 5007 5008
1654 VTD: 067PE01 - PEBBLEBROOK 01
1655 VTD: 067PE02 - PEBBLEBROOK 02
1656 031308:
1657 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016
1658 2017 2018 2019 2022
1659 031309:

1660 1000 1003 1004 1009 1011 1012 1013 1014 1015 1016 1017 1020
1661 1021 1022 1024 2000 2001 2002 2003 2004 2005 2014 2015 3000
1662 3001 3002 3003 3004 3005 3006 3007 3008 3009 3010 3011 3012
1663 3013 3014 3015
1664 031408:
1665 1002 1003 1004 1010 1020 1021 1022 1023 1027 1028 1029 1036
1666 1043 1065 1066 1069
1667 VTD: 067RS01 - RIVERSIDE 01
1668 VTD: 067SW02 - SWEETWATER 02
1669 VTD: 067SW04 - SWEETWATER 04

1670 For the purposes of this description, the term "VTD" shall mean and describe the same
1671 geographical boundaries as provided in the report of the Bureau of the Census for the United
1672 States decennial census of 2010 for the State of Georgia. The separate numeric designations
1673 in the description which are underneath a VTD heading shall mean and describe individual
1674 blocks within a VTD as provided in the report of the Bureau of the Census for the United
1675 States decennial census of 2010 for the State of Georgia.

1676 APPENDIX B
1677 City Council Districts

1678 Plan: Mableton-Dist-2019

1679 Plan Type: Local

1680 Administrator: HD039

1681 User: bak

1682

1683 District 001

1684 Cobb County

1685 VTD: 067BT01 - BRYANT 01

1686 VTD: 067BT02 - BRYANT 02

1687 031310:

1688 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012

1689 1013 1014 1015 1016 1017 2000 2001 2002 2003 2004 2005 2006

1690 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018

1691 2019 2020 2021 2022 2023 2024 2025 2026 2027 2028 2029 2030

1692 2031 2032 2033 3006 3007 3008 3011 3012

1693 031311:

1694 1015 1016

1695 VTD: 067PE01 - PEBBLEBROOK 01

1696 031308:

1697 1014 1015 1016 1017 1018 1019 1020 3013 3014 3015 3016 3017

1698 3018 3019 3020 3021 3022

1699 031309:

1700 3016 3017 3018 3019 4000 4007 4008 4009 4012

1701 VTD: 067PE02 - PEBBLEBROOK 02

1702 031309:

1703 3003 3004 3005 3011 3012 3013 3014 3015

1704 District 002

1705 Cobb County

1706 VTD: 067BT02 - BRYANT 02

1707 031310:

1708 3000 3001 3002 3003 3004 3005 3013 3014

1709 031311:

1710 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011

1711 1012 1013 1014 2006 2007 2008 2009 2010 2027 2028 2029

1712 VTD: 067HL01 - HARMONY-LELAND

1713 031312:

1714 1024 1025 1032 1033 3031 3032 3033 3034 3035 3036 3037 3038

1715 3039 3043 3044 4020 4021 4022 4023 4024 4025 4026 4028 4034

1716 4035 4036 4037 4038 4043 4044 4046 4047 4048

1717 VTD: 067RS01 - RIVERSIDE 01

1718 District 003

1719 Cobb County

1720 VTD: 067HL01 - HARMONY-LELAND

1721 031312:

1722 1000 1013 1014 1015 1016 1020 1021 1022 1023 1026 1027 1028

1723 1029 1030 1031 2000 2001 2002 2003 2004 2005 2006 2007 2008

1724 2009 2010 2011 2012 2013 2014 2015 2016 3000 3001 3002 3003

1725 3004 3005 3006 3007 3008 3009 3010 3011 3012 3013 3014 3015

1726 3016 3017 3018 3019 3020 3021 3022 3023 3024 3025 3026 3027

1727 3028 3029 3030 3040 3041 3042
1728 VTD: 067MA01 - MABLETON 01
1729 031309:
1730 1008
1731 031408:
1732 1001
1733 VTD: 067MA02 - MABLETON 02
1734 031306:
1735 1030 1031 2031 2033 2042
1736 031308:
1737 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 2000 2001
1738 2002 2003 2004 2020 2021
1739 031312:
1740 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012
1741 1017 1018 1019
1742 VTD: 067PE01 - PEBBLEBROOK 01
1743 031308:
1744 1010 1011 1012 1013 3000 3001 3002 3003 3004 3005 3006 3007
1745 3008 3009 3010 3011 3012
1746 031309:
1747 2006 2007 2008 2009 2010 2011 2012 2013 2016 2017 2018
1748 VTD: 067PE02 - PEBBLEBROOK 02
1749 031308:
1750 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016
1751 2017 2018 2019 2022
1752 031309:
1753 1000 1003 1004 1009 1011 1012 1013 1014 1015 1016 1017 1020

1754 1021 1022 1024 2000 2001 2002 2003 2004 2005 2014 2015 3000
 1755 3001 3002 3006 3007 3008 3009 3010
 1756 031408:
 1757 1002 1003 1004 1010 1020 1021 1022 1023 1027 1028 1029 1036
 1758 1043 1065 1066 1069

1759 District 004
 1760 Cobb County
 1761 VTD: 067HL01 - HARMONY-LELAND
 1762 031312:
 1763 4000 4001 4002 4003 4004 4005 4006 4007 4008 4009 4010 4011
 1764 4012 4013 4014 4015 4016 4017 4018 4019 4027 4029 4030 4031
 1765 4032 4033 4039 4040 4041 4042 4045
 1766 VTD: 067LI01 - LINDLEY 01
 1767 VTD: 067MA03 - MABLETON 03
 1768 VTD: 067MA04 - MABLETON 04
 1769 031206:
 1770 1056 1082
 1771 031307:
 1772 1000 1003 1006 3007 3008 3009 3010 3011 3012 3013 3014 3015
 1773 3016 3017 3018 3024 3025 3029 3031 3032 3033 3037 3040 3044
 1774 3046 3048 3049 3050 3051 3052 3053 3054 3055 3057 3058

1775 District 005
 1776 Cobb County
 1777 VTD: 067CO01 - COOPER 01
 1778 031405:

1779 5009 5010 5011 5012 5013 5014 5015 5020
1780 031409:
1781 1000 1001
1782 031507:
1783 2012 2013 2015
1784 VTD: 067MA01 - MABLETON 01
1785 031306:
1786 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011
1787 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023
1788 1024 1025 1026 1027 2000 2001 2002 2003 2004 2005 2006 2007
1789 2008 2009 2010 2011 2012 2013 2014 2037
1790 031404:
1791 3006 3007 3009 3010 3011 3012 3013 3014 3015 3016 3019 3020
1792 3025 4000 4001 4002 4003 4007 4009 4010 4011 4013 4017 4021
1793 4024 4025 4027 4031
1794 031409:
1795 2077
1796 VTD: 067MA02 - MABLETON 02
1797 031306:
1798 1028 1029 2015 2016 2017 2018 2019 2020 2023 2024 2025 2026
1799 2028 2030 2032 2034 2035 2036 2039 2040 2041 2044 2046 2049
1800 2051 2053 2054 2055
1801 031404:
1802 3017 3022
1803 VTD: 067SW04 - SWEETWATER 04

1804 District 006
1805 Cobb County
1806 VTD: 067BR02 - BIRNEY 02
1807 VTD: 067MA04 - MABLETON 04
1808 031307:
1809 3019 3020 3021 3022 3023 3026 3027 3028 3030
1810 VTD: 067NP01 - NORTON PARK 01
1811 031106:
1812 2027 2028
1813 031117:
1814 1025 1026 2025 2026
1815 VTD: 067NP02 - NORTON PARK 02
1816 031117:
1817 3003 3004 3005 3006 3007 3008 3009 3010 3011 3012 3013 3014
1818 3015 3016
1819 VTD: 067OR02 - OREGON 02
1820 031405:
1821 5000 5001 5002 5003 5004 5005 5006 5007 5008
1822 VTD: 067SW02 - SWEETWATER 02

1823 For the purposes of this plan (Mableton-dist-2019):
1824 (1) The term "VTD" shall mean and describe the same geographical boundaries as
1825 provided in the report of the Bureau of the Census for the United States decennial census
1826 of 2010 for the State of Georgia. The separate numeric designations in a district
1827 description which are underneath a VTD heading shall mean and describe individual
1828 blocks within a VTD as provided in the report of the Bureau of the Census for the United
1829 States decennial census of 2010 for the State of Georgia;

1830 (2) Except as otherwise provided in the description of any district, whenever the
1831 description of any district refers to a named city, it shall mean the geographical
1832 boundaries of that city as shown on the census maps for the United States decennial
1833 census of 2010 for the State of Georgia;

1834 (3) Any part of the City of Mableton which is not included in any district described in
1835 this plan (Mableton-dist-2019) shall be included within that district contiguous to such
1836 part which contains the least population according to the United States decennial census
1837 of 2010 for the State of Georgia; and

1838 (4) Any part of the City of Mableton which is described in this plan
1839 (Mableton-dist-2019) as being included in a particular district shall nevertheless not be
1840 included within such district if such part is not contiguous to such district. Such
1841 noncontiguous part shall instead be included within that district contiguous to such part
1842 which contains the least population according to the United States decennial census of
1843 2010 for the State of Georgia.

APPENDIX C

CERTIFICATE AS TO MINIMUM STANDARDS

FOR INCORPORATION OF A NEW MUNICIPAL CORPORATION

I, Representative Erica Thomas, Georgia State Representative from the 39th District and the author of this bill introduced at the 2021 session of the General Assembly of Georgia, which grants an original municipal charter to the City of Mableton, do hereby certify that this bill is in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. in that the area embraced within the original incorporation in this bill is in all respects in compliance with the minimum standards required by Chapter 31 of Title 36 of the O.C.G.A. This certificate is executed to conform to the requirements of Code Section 36-31-5 of the O.C.G.A.

So certified, this _____ day of _____, _____.

Honorable Erica Thomas

Representative, 39th District

Georgia State House of Representatives