

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SENATE BILL 497
RATIFIED BILL**

AN ACT TO REVISE AND CONSOLIDATE THE CHARTER OF THE CITY OF MOUNT AIRY, TO ANNEX CERTAIN DESCRIBED PROPERTY INTO THE CORPORATE LIMITS OF THE CITY OF MOUNT AIRY, TO MODIFY THE CITY OF MOUNT AIRY OCCUPANCY TAX PROVISIONS, AND TO AUTHORIZE THE TOWN OF BLOWING ROCK TO INCREASE ITS OCCUPANCY TAX AND TO MAKE OTHER ADMINISTRATIVE CHANGES TO ITS OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

MOUNT AIRY CHARTER REVISIONS

SECTION 1. The Charter of the City of Mount Airy is revised and consolidated to read as follows:

"THE CHARTER OF THE CITY OF MOUNT AIRY.

"ARTICLE I. INCORPORATION, CORPORATE POWERS, AND BOUNDARIES.

"Section 1.1. **Incorporation.** The City of Mount Airy, North Carolina, in Surry County and the inhabitants thereof shall continue to be a municipal body politic and corporate, under the name of the 'City of Mount Airy,' hereinafter at times referred to as the 'City.'

"Section 1.2. **Powers.** The City shall have and may exercise all of the powers, duties, rights, privileges, and immunities conferred upon the City of Mount Airy specifically by this Charter or upon municipal corporations by general law. The term 'general law' is employed herein as defined in G.S. 160A-1.

"Section 1.3. **Corporate Boundaries.** The corporate boundaries shall be those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with law. An official map of the City, showing the current municipal boundaries, shall be maintained permanently in the office of the City Clerk and shall be available for public inspection. Upon alteration of the corporate limits pursuant to law, the appropriate changes to the official map shall be made and copies shall be filed in the office of the Secretary of State, the Surry County Register of Deeds, and the appropriate board of elections.

"ARTICLE II. GOVERNING BODY.

"Section 2.1. **City Governing Body Composition.** The Board of Commissioners, hereinafter referred to as the 'Board' and the Mayor shall be the governing body of the City.

"Section 2.2. **Board; Composition; Terms of Office.** The Board shall be composed of five members to be elected by all the qualified voters of the City voting at large for staggered terms of four years, or until their successors are elected and qualified. Two commissioners shall be residents of the ward currently designated as the 'North Ward,' two commissioners shall be residents of the ward currently designated as the 'South Ward,' and one commissioner shall be elected as at large.

"Section 2.3. **Mayor Term of Office, Duties.** The Mayor shall be elected by all the qualified voters of the City for a term of four years or until his or her successor is elected and qualified. The Mayor shall be the official head of City government and shall preside at all meetings of the Board, shall have the right to vote only when there is an

equal division on any question or matter before the Board, and shall exercise the powers and duties conferred by law or as directed by the Board.

"Section 2.4. **Mayor Pro Tempore.** The Board shall elect one of its members as Mayor Pro Tempore to perform the duties of the Mayor during the Mayor's absence or disability, in accordance with general law. The Mayor Pro Tempore shall serve in such capacity at the pleasure of the Board.

"Section 2.5. **Meetings; Quorum.** In accordance with general law, the Board shall establish a suitable time and place for its regular meetings. Special and emergency meetings may be held as provided by general law. The quorum provisions of G.S. 160A-74 shall apply.

"Section 2.6. **Qualifications for Office; Compensation; Vacancies.** The qualifications and compensation of the Mayor and Board members shall be in accordance with general law. Vacancies shall be filled as provided in G.S. 160A-63.

"ARTICLE III. ELECTIONS.

"Section 3.1. **Regular Municipal Elections.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. The Mayor and the Board shall be elected by the nonpartisan primary and election method as provided in G.S. 163-279(a)(3) and G.S. 163-294. Board members shall be elected by all the qualified voters of the City and shall reside in the wards they represent.

"Section 3.2. **Election of Mayor.** A Mayor shall be elected in the regular municipal election in 2005 and quadrennially thereafter.

"Section 3.3. **Election of Commissioners.** The Commissioners serving on the date of ratification of this Charter shall serve until the expiration of their terms or until their successors are elected and qualified. In the 2003 election and quadrennially thereafter, three commissioners shall be elected, the Commissioner-at-Large, one commissioner representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring. In the 2005 election and quadrennially thereafter, two commissioners shall be elected, one commissioner representing the North Ward for the term then expiring, and one commissioner representing the South Ward for the term then expiring.

"Section 3.4. **Ward Boundaries.** The City shall be divided into two wards that are currently designated as the North Ward and the South Ward. The ward boundaries are those existing at the time of ratification of this Charter, as set forth on the official map of the City and as they may be altered from time to time in accordance with general law.

"Section 3.5. **Special Elections and Referenda.** Special elections and referenda may be held only as provided by general law or applicable local acts of the General Assembly.

"ARTICLE IV. ORGANIZATION AND ADMINISTRATION.

"Section 4.1. **Form of Government.** The City shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

"Section 4.2. **City Manager; Appointment; Powers and Duties.** The Board shall appoint a City Manager in accordance with G.S. 160A-147 and the provisions of Article V of this Charter.

"Section 4.3. **City Clerk.** The City Manager shall appoint a City Clerk to keep a journal of the proceedings of the Board, to maintain official records and documents, to give notice of meetings, and to perform such other duties as required by law or as directed by the City Manager.

"Section 4.4. **Finance Director.** The City Manager shall appoint a Finance Director to perform the duties designated in G.S. 159-25 and such other duties as may be prescribed by law or assigned by the Manager.

"Section 4.5. **Tax Collector.** The City shall have a Tax Collector to collect all taxes owed to the City and perform those duties specified in G.S. 105-350 and such other duties as prescribed by law or assigned by the City Manager. Notwithstanding G.S.

105-349, the City Manager shall have the power to appoint, suspend, and remove the Tax Collector in accordance with general personnel rules, regulations, policies, and ordinances as adopted by the Board.

"Section 4.6. **City Attorney.** The Board shall appoint a City Attorney licensed to practice law in North Carolina. It shall be the duty of the City Attorney to represent the City, advise City officials, and perform other duties as required by law or as directed by the Board. The Board may appoint one or more Assistant City Attorneys to assist the City Attorney and serve in his or her absence or incapacity and who shall have the same qualifications and duties as the City Attorney.

"Section 4.7. **Other Administrative Officers and Employees.** The Board may authorize other positions to be filled by appointment by the City Manager and may organize the City government as deemed appropriate, subject to the requirements of general law.

"ARTICLE V. CITY MANAGER.

"Section 5.1. **Appointment, qualifications; term; compensation; oath.**

(a) The Board shall appoint a City Manager in accordance with Article IV of this Charter who shall be the administrative head of all departments of City government. The City Manager shall be appointed with regard to merit only and need not be a resident of the City when appointed. The Board may require the City Manager to reside within the City during the Manager's tenure of office. No Board member may be appointed or act as City Manager during the term for which the member was elected or within one year after the expiration of the member's term.

(b) Unless otherwise agreed upon by the Board and the City Manager, if the City Manager is involuntarily removed by the Board, except for good and just cause, the City Manager shall be forthwith paid any unpaid balance of salary, any accumulated and accrued job benefits, and salary for the three calendar months following the day of termination or for such other period as may be agreed upon in advance.

(c) Before entering upon the duties of office, the City Manager shall take and subscribe an oath to perform faithfully the duties of the office.

"Section 5.2. **Powers and Duties.** The City Manager shall have all the powers and duties conferred by general law, except as expressly limited by the Board, so far as authorized by general law, and the provisions of this Charter. Additionally, the City Manager shall have the following powers and duties:

(a) The City Manager may designate an assistant to perform the Manager's functions temporarily when the Manager is absent from the City, sick, or otherwise unable to act; and from time to time, with Board approval, may designate an assistant or assistants to perform the Manager's functions during any particular absence or disability. The person or persons so designated shall have all of the powers and duties of the City Manager when acting in the place of the City Manager.

(b) The City Manager may, when authorized by the Board, execute in the name and on behalf of the City, contracts, bonds, and other legal instruments, except deeds.

(c) The City Manager shall make and execute all contracts on behalf of the City in the manner authorized or provided by resolutions or ordinances adopted by the Board. The Board may, on such terms as it deems proper, allow the City Manager to authorize one or more designees to make and execute contracts.

(d) The City Manager may, when authorized by the Board, settle claims against the City for: (i) personal injuries or damages to property when the amount involved does not exceed the sum of ten thousand dollars (\$10,000) and does not exceed the actual loss sustained, including loss of time, medical expenses, and any other expenses actually incurred; and (ii) the taking of small portions of private property that are needed for the rounding of corners at intersections of streets, when the amount involved does not exceed ten thousand dollars (\$10,000) and does not exceed the actual loss sustained. Settlement of a claim by the City Manager pursuant to this subsection shall constitute a complete release of the City from any and all damages sustained by the person involved in the settlement in any manner arising out of the incident, occasion, or

taking complained of. All settlements and all releases shall be approved by the City Attorney.

(e) Unless excused by the Board, it shall be the duty of the City Manager to attend all meetings of the Board, with the right to take part in discussions and recommend for adoption such measures as the City Manager deems expedient, but the City Manager shall not vote on any matters before the Board. The City Manager shall be entitled to notice of all special and emergency Board meetings.

"Section 5.3. **Manager's Personnel Authority; Role of Elected Officials.** As chief administrator, the City Manager shall have the power to appoint, suspend, and remove all officers, department heads, and employees in the administrative service of the City, except the City Attorney and any other official whose appointment or removal is specifically vested in the Board by this Charter or general law. Neither the Board nor any of its members shall take part in the appointment or removal of department heads and employees in the administrative service of the City, except as provided by this Charter. Except for the purpose of inquiry, or for consultation with the City Attorney, the Board and its members shall deal with the administrative service solely through the City Manager, an acting City Manager, or an Interim City Manager, and neither the Board nor any of its members shall give any specific orders to any subordinates of the City Manager, an acting City Manager, or an Interim City Manager, either publicly or privately.

"ARTICLE VI. PUBLIC CONTRACTS.

"Section 6.1. **Award of Certain Contracts.**

(a) The City Manager may award, approve, and execute contracts or agreements of any kind or nature on behalf of the City when the amount of the contract or agreement does not exceed one hundred thousand dollars (\$100,000) if the Board has approved the appropriation in the annual budget for the current fiscal year for the general purpose specified in the contract or agreement. In addition, the City Manager, or the City Manager's duly authorized designee appointed in accordance with Section 5.2(a) of this Charter, may approve and execute amendments to contracts or agreements, including contracts initially approved solely by the Board when the amount in question does not exceed one hundred thousand dollars (\$100,000).

(b) The City Manager, upon authorization by the Board, may award, approve, and execute contracts for the acquisition of or the construction and installation of water and sewer lines that will eventually become a part of the City utility system, regardless of the amount in question, where the construction and installation was or shall be the sole responsibility and expense of another person, firm, or corporation.

"Section 6.2. **Procedures.**

(a) The City Manager shall, within 45 days of the award of any contract described in Section 6.1 of this Charter, report such award to the Board. However, the City Manager shall not be required to report contracts in a minimum amount that may be set from time to time by the Board.

(b) In awarding, approving, and executing contracts described in this Article, the City Manager shall comply with all applicable provisions of this Charter and Article 8 of Chapter 143 of the General Statutes. The City Manager may take any action that the Board is required or authorized to take under Article 8 of Chapter 143 of the General Statutes in making, approving, awarding, or executing contracts.

"ARTICLE VII. ACQUISITION OF PROPERTY.

"Section 7.1. **Delegation to City Manager.** The Board may delegate authority to the City Manager to purchase real property, any interest in real property, or personal property provided that: (i) the Board shall have approved the appropriation for the purchase in the annual budget for the current fiscal year; and (ii) the City Manager, within 45 days following the purchase shall submit to the Board a written report setting forth the names of the persons or entities from whom the real property or interest in real property was purchased, a general description of the property or interest in property

acquired, the purchase price paid, and the intended use of the property or interest in property.

"ARTICLE VIII. DISPOSITION OF PROPERTY.

"Section 8.1. **General Provision.** Unless specifically provided otherwise, the provisions of Article 12 of Chapter 160A of the General Statutes shall not apply to the disposition of property pursuant to this Article. The authority contained in this Article is in addition to and not in limitation of any other authority granted by this Charter or general law.

"Section 8.2. **Disposition of Property.** The Board may, upon the affirmative vote of at least four members, publicly or privately sell, lease, rent, exchange, or otherwise convey or cause to be publicly or privately sold, leased, rented, exchanged, or otherwise conveyed any property, real or personal, or any interest in such property, belonging to the City.

"Section 8.3. **Conditions and Restrictions Authorized.** The Board may sell, exchange, or otherwise transfer the fee or any lesser interest in real property to any purchaser subject to such covenants, conditions, and restrictions as the Board may deem to be in the public interest. The sale, exchange, or other transfer may be made pursuant to the provisions of this Charter, Article 12 of Chapter 160A of the General Statutes, or any other applicable provision of law, and the consideration received by the City, if any, for the sale, exchange, or transfer may reflect the restricted use of the property resulting from the covenants, conditions and restrictions. The City may invite bids or written proposals, including detailed development plans and site plans, for the purchase of any property or property interest, whether by sale, exchange, or other transfer, pursuant to such specifications as may be approved by the City. A sale, exchange, or other transfer of real property, or interest therein, pursuant to this section may be made contingent upon any necessary rezoning of the property.

"Section 8.4. **Disposition of Certain Property by City Manager.** The Board may authorize the City Manager to dispose of the following property by the methods indicated without obtaining Board approval for each disposition:

- (a) Interests in real property by private negotiation or sale with respect to parcels having a fair market value of ten thousand dollars (\$10,000) or less.
- (b) Water or sewer easements, or similar interests in real property, as part of any exchange for other water and sewer easements or similar interests in property.
- (c) Water or sewer easements, or similar interests in real property by private negotiation and sale, when the easement or similar interest in real property is no longer needed by the City.

"Section 8.5. **Disposition of Personal Property.** The City may sell any and all surplus personal property belonging to the City at private sale.

"Section 8.6. **Lease or Rental of Property.** Notwithstanding G.S. 160A-272, the Board may, in its discretion, lease City-owned property for such terms and upon such conditions as the Board may determine, including terms of more than 10 years without the necessity of following any procedures other than those required by G.S. 160A-272 for leases of 10 years or less.

"Section 8.7. **Documents of Conveyance.** Whenever a disposition of an interest in real property is authorized by the City pursuant to this Charter or otherwise, the instrument conveying such interest may be executed by the Mayor or the Mayor's designee and attested by the City Clerk or City Manager, with the official seal of the City affixed thereto. With respect to the sale of real property the City may execute deeds in the usual form and include therein full covenants of warranty.

"ARTICLE IX. ECONOMIC DEVELOPMENT.

"Section 9.1. **Promotion of the City.** The Board is authorized to appropriate annually reasonable sums for promoting the City.

"Section 9.2. **Encouraging Local Development.** The Board is authorized and empowered to annually set apart and appropriate funds and to expend the same for the purpose of aiding, assisting, and encouraging, by contract with independent contractors

or otherwise, the location of manufacturing, industrial, and commercial plants, distribution centers, or businesses in the City and for advertising the advantages and resources of the City and for such purposes as will, in the discretion of the Board, increase the taxable value of property of the City and that will promote the general welfare of the City, which purposes are declared to be lawful public purposes of the City.

"Section 9.3. Urban Development Projects.

(a) The term 'urban development project' as used in this section means a capital project comprising the construction or renovation of one or more buildings or other improvements, including the provision for sidewalks and streets in conjunction therewith, of which part of the overall project is privately owned and part is publicly owned.

(b) The City may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of an urban development project or specific facilities within the project, including the making of loans and grants from any moneys lawfully available for the project.

(c) The City may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating an urban development project. The contract may be entered into before acquisition of any real property necessary for the project. The contract may specify the following:

- (1) The property interests of both the City and the developer. However, the property interests of the City shall be limited to facilities for a public purpose.
- (2) The responsibilities of the City and the developer for construction of the project.
- (3) The responsibilities of the City and the developers with respect to financing the project.

(d) An urban development project may be constructed on property acquired by the developer on property acquired by the City or on property acquired jointly by the City and the developer.

(e) The City may lease or convey interests in urban development project property or other property owned by it, including air rights over public facilities.

(f) The contract between the City and the developer with respect to construction of an urban development project may provide that the developer shall be responsible for: (i) construction of the entire project, reconstruction, or repair of the project or any part thereof subsequent to its initial construction; (ii) construction of any addition to the project, renovation of the project, or any part thereof, and (iii) purchase of apparatus, supplies, materials, or equipment for the project, whether during the initial equipping of the project or subsequent thereto. The contract shall include such provisions as the Board deems sufficient to assure that the public facility included in the project or added thereto, is constructed, reconstructed, repaired, or renovated, and that the apparatus, supplies, materials, and equipment are purchased at a reasonable price. The provisions of Article 8 of Chapter 143 and Article 3 of Chapter 44A of the General Statutes shall not apply to an urban development project if the City funds constitute no more than fifty percent (50%) of the total costs of the project. Federal funds available for loan to private developers in connection with a project shall not be considered City funds for purposes of this subsection.

(g) The City may contract for the operation of any public facility included in an urban development project by any person, partnership, firm or corporation, public or private.

(h) To assist in the financing of its share of the urban development project, the City may apply for, accept, and expend funds from the federal or state government or from any other lawful source.

(i) The authority granted by this section is in addition to and not in derogation of any other authority granted to the City by general law. The City may exercise any

authority granted to it by any other section of this Charter or by local act or general law in furtherance of an urban development project.

"Section 9.4 **Incubator Facilities.** The Board may establish one or more incubator facilities within the City. For purposes of this section, the term 'incubator facility' shall mean a building or group of buildings that provides space and support services for small business concerns that are beginning operation. The Board may purchase or lease any real or personal property for incubator facility purposes and may lease or sublease any such property or any other real or personal property owned by the City. The Board may make grants or loans to any such corporation from funds lawfully available for such purpose subject to any rules, regulations, restrictions, and conditions that the Board deems to be in the public interest. The City may exercise any authority granted to it by any other section of this Charter or by local act or general law in furtherance of an incubator facility project.

"ARTICLE X. EXTENSION OF LIMITS.

"Section 10.1. **Annexation of Noncontiguous Areas.** G. S. 160A-58.1(b)(5) shall not apply to the City.

"ARTICLE XI. LAND USE.

"Section 11.1. **Planning Board and Zoning Board of Adjustment.** The membership and method of appointing the members of the City Planning Board and the City Zoning Board of Adjustment shall continue as provided in S.L. 2001-101.

"Section 11.2. **Reservation of Recreation Areas.** In adopting any subdivision control ordinance pursuant to the provisions of this Charter or G.S. 160A-372, the Board is authorized to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or to provide for the payment in lieu thereof of such sum of money as the Board may determine to be the equivalent in value of such recreation area. The Board may use any moneys received in lieu of dedicated recreation areas for acquiring recreation areas beyond the boundaries of the immediate subdivision but within the neighborhood wherein the subdivision lies.

Section 11.3. **Trees and Shrubs.** In order to preserve and enhance one of the most valuable natural resources of the community and to protect the safety and welfare of its citizens, the City may adopt ordinances to regulate the planting, removal, and preservation of trees and shrubs on public and private property within the municipal boundaries and within its area of extraterritorial planning jurisdiction. Any ordinance adopted pursuant to this section shall exclude property to be developed for single-family or duplex residential uses and shall exclude normal forestry activities conducted pursuant to a forestry management plan prepared or approved by a registered forester. Prior to adopting an ordinance under this section, a public hearing shall be held before the Board. Notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing.

"ARTICLE XII WATER AND SEWER.

"Section 12.1. **Operation Outside Corporate Limits.** In addition to any authority granted by general law, the City is authorized to acquire, construct, establish, enlarge, improve, maintain, own, operate, contract for the operation of, protect, and regulate water and sewer utilities outside the corporate limits of the City as the Board may deem appropriate, including the area encompassing the territory located within the Commonwealth of Virginia that lies between the northern boundary of Surry County, North Carolina, and the southern right-of-way line of the Blue Ridge Parkway.

"Section 12.2. **Utility Bill Collection Procedures.** Whenever water or sewer utilities are provided by the City under authority of general law or this Charter, and the person legally responsible for payment of the rents, rates, fees, or charges for the service fails to pay the rents, rates, fees, or charges for more than 60 days after they became delinquent, the City may treat the amount due as if it were a tax due to the City and may

proceed to collect the amount due through the use of levy on tangible personal property under G.S. 105-366 and G.S. 105-367.

"Section 12.3. **Dedication of Certain Water and Sewer Lines.** If any person, firm, or corporation connects any privately owned water or sewer lines to City-owned or operated lines without first dedicating, giving, granting, conveying, or otherwise contracting with respect to the lines, the act of connection shall be deemed a dedication, gift, grant, and conveyance of the lines to the City. The City may accept the lines or may reject them and order the lines disconnected.

"Section 12.4. **Special Assessments.** In exercising the authority granted under Article 16 of Chapter 160A of the General Statutes to extend and operate public enterprises outside the corporate limits, the City may specially assess all or part of the costs of installing, constructing, reconstructing, extending, building, or improving water supply and distribution systems or sewage collection and disposal systems outside the corporate limits of the city against property benefited from the systems. However, no special assessment shall be levied unless and until a valid petition for the improvements has been submitted to the City by the owners of the affected property. To be valid, the petition must be signed by at least a majority in number of the owners of property to be assessed, who must represent at least a majority of all of the lineal feet of frontage of the lands abutting the water or sewer improvement. Except as herein provided, special assessments levied pursuant to this section shall be levied and collected in the same way and under the same authority and procedures as special assessments levied and collected by the City upon property within the corporate limits. The effect of levying assessments under this section shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIII. STREETS AND SIDEWALKS.

"Section 13.1. **Assessments for Street Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making street improvements, the Board is authorized to order to be made or to make street improvements according to the standards and specifications of the City and to assess the total costs or a portion thereof against abutting property owners in accordance with the provisions of this Article.

"Section 13.2. **When Petition Unnecessary.** The Board may order street improvements and assess the total costs or a portion thereof, exclusive of the costs incurred at street intersections, against the abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes, without the necessity of a petition, upon a finding by the Board of one of the following:

(a) The street or part thereof is unsafe for vehicular traffic and it is in the public interest to make the improvement.

(b) It is in the public interest to connect two streets or portions of a street already improved.

(c) It is in the public interest to widen a street, or part thereof, that is already improved. However, assessments for widening any street or portion of a street without petition shall be limited to the cost of widening and otherwise improving the street in accordance with the street classification and improvement standards established by the City's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this Article.

"Section 13.3. **Street Improvement Defined.** 'Street improvement' shall include grading, regrading, surfacing, resurfacing, widening, paving, and repaving streets, the acquisition of rights-of-way, and the construction or reconstruction of curbs, gutters and street drainage facilities.

"Section 13.4. **Sidewalk Improvements.** In addition to any authority that is now or may hereafter be granted by general law for making sidewalk improvements, the Board is authorized to order to be made or to make sidewalk improvements or repairs according to the standards and specifications of the City, and to assess the total costs or

a portion thereof, against abutting property owners according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the General Statutes. However, the Board may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of the street.

"Section 13.5. **Assessment Procedure.** In ordering street or sidewalk improvements without a petition and assessing the cost thereof under authority of this Article, the Board shall comply with the procedure provided in Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

"Section 13.6. **Effect of Assessments.** The effect of the act of levying assessments under authority of this Article shall for all purposes be the same as if the assessments were levied under authority of Article 10 of Chapter 160A of the General Statutes.

"ARTICLE XIV. FIREFIGHTERS' SUPPLEMENTARY PENSION FUND.

"Section 14.1. **Continuation of Fund.** The Mount Airy Firefighters' Supplementary Pension Fund shall continue as authorized in Chapter 302 of the 1967 Session Laws, as amended by Chapter 12 of the 1969 Session Laws, Chapter 121 of the 1973 Session Laws, Chapter 165 of the 1995 Session Laws, S.L. 2000-22, and any subsequent acts of the General Assembly.

"ARTICLE XV. REGULATORY JURISDICTION.

"Section 15.1. **Speed Limits.** The Board may authorize the Chief of Police to establish speed limits pursuant to G.S. 20-141.

"Section 15.2. **Solicitation and Peddling.** The City may exercise the authority contained in G.S. 160A-178 and G.S. 160A-179 within its area of extraterritorial planning jurisdiction.

"Section 15.3. **Drainage.** The Board may forbid any obstruction or stopping on any natural drainway within the City or diverting the water therefrom and may require land owners desiring to construct or install pipes or culverts to carry water or other drainage off their land to construct and install the pipes or culverts according to plans and specifications adopted or approved by the Board.

"ARTICLE XVI. TOURISM DEVELOPMENT AUTHORITY.

"Section 16.1. **Occupancy Tax Authorized.** The Mount Airy Tourism Development Authority shall continue as authorized in S.L. 1997-410, as amended by S.L. 2001-7, and any subsequent acts of the General Assembly."

SECTION 2. The purpose of this act is to revise the Charter of the City of Mount Airy and to consolidate certain acts concerning the property, affairs, and government of the City. It is intended to continue without interruption those provisions of prior acts that are expressly consolidated into this act so that all rights and liabilities that have accrued are preserved and may be enforced.

SECTION 3. This act does not repeal or affect any acts concerning the property, affairs, or government of public schools or any acts validating official actions, proceedings, contracts, or obligations of any kind.

SECTION 4. The following acts, or portions of acts, having served the purposes for which they were enacted, or having been consolidated into this act, are expressly repealed:

Chapter 160 of the 1925 Private Laws, except for Section 1 and Section 4.

Chapter 27 of the 1927 Private Laws.

Chapter 89 of the 1927 Private Laws.

Chapter 191 of the 1937 Private Laws.

Chapter 35 of the 1939 Private Laws.

Chapter 710 of the 1943 Session Laws, as it applies to the City of Mount Airy.

Chapter 932 of the 1945 Session Laws, as it applies to the City of Mount Airy.

Chapter 244 of the 1949 Session Laws.

Chapter 709 of the 1949 Session Laws.

Chapter 1072 of the 1957 Session Laws.

Chapter 734 of the 1959 Session Laws.

Chapter 1005 of the 1961 Session Laws.
Chapter 120 of the 1963 Session Laws.
Chapter 285 of the 1963 Session Laws.
Chapter 521 of the 1963 Session Laws.
Chapter 630 of the 1963 Session Laws.
Chapter 652 of the 1963 Session Laws.
Chapter 46 of the 1969 Session Laws.
Chapter 291 of the 1969 Session Laws.
Chapter 426 of the 1971 Session Laws, except for Section 6.
Chapter 485 of the 1973 Session Laws, as it applies to the City of Mount Airy.
Chapter 75 of the 1977 Session Laws.
Chapter 416 of the 1989 Session Laws.
Chapter 793 of the 1991 Session Laws, as it applies to the City of Mount Airy.
Chapter 26 of the 1993 Session Laws.
Chapter 30 of the 1995 Session Laws.
S.L. 1999-232.
S.L. 1999-325.

SECTION 5. The Mayor and Commissioners serving on the date of ratification of this act shall serve until the expiration of their terms or until their successors are elected and qualified.

SECTION 6. No provision in this act is intended, nor shall be construed, to affect in any way, any rights or interests, whether public or private:

- (1) Now vested or accrued, in whole or in part, the validity of which might be sustained or preserved by reference to any provision of law repealed by this act.
- (2) Derived from, or which might be sustained or preserved in reliance upon, action heretofore taken pursuant to or within the scope of any provisions of law repealed by this act.

SECTION 7. No law heretofore repealed expressly or by implication, and no law granting authority that has been exhausted, shall be revived by: (i) the repeal herein of any act repealing such law, or (ii) any provision of this act that disclaims an intention to repeal or affect enumerated or designated laws.

SECTION 8. All existing ordinances, resolutions, and other provisions of the City of Mount Airy not inconsistent with the provisions of this act shall continue in effect until repealed, modified, or amended.

SECTION 9. No action or proceeding pending on the effective date of this act by or against the City or any of its departments or agencies shall be abated or otherwise affected by this act.

SECTION 10. Whenever a reference is made in this act to a particular provision of the General Statutes and such provision is later amended, superseded, or recodified, the reference shall be deemed amended to refer to the amended General Statute or to the General Statute that most nearly corresponds to the statutory provision that is superseded or recodified.

MOUNT AIRY ANNEXATION

SECTION 11. The following described property is added to the corporate limits of the City of Mount Airy:

TRACT ONE

That portion of the property described in Deed Book 319, page 670, Surry County Registry containing 9.4 acres and designated as Surry County Tax Parcel Number 5939-09-07-7472 that is not already within the corporate limits.

TRACT TWO

The property described in Deed Book 629, page 420, Surry County Registry containing approximately 0.81 acre and designated as Surry County Tax Parcel Number 5021-12-85-6400.

TRACT THREE

The property described in Deed Book 625, page 398, Surry County Registry containing approximately 0.70 acre and designated as Surry County Tax Parcel Number 5929-10-45-8751.

MOUNT AIRY OCCUPANCY TAX REVISIONS

SECTION 12. Section 1 of S.L. 1997-410 reads as rewritten:

"Section 1. Mount Airy Occupancy Tax. (a) Authorization and scope. The Mount Airy Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of any room, lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations or by nonprofit summer camps when the accommodations are furnished in furtherance of their nonprofit purpose.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Mount Airy Board of Commissioners may levy a room occupancy tax of up to three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that subsection. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The City of Mount Airy may not levy a tax under this subsection unless it also levies a tax under subsection (a) of this section.

(b) Administration. A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

(c) Distribution and use of tax revenue. The City of Mount Airy shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection ~~only~~ to promote travel and tourism in the Mount Airy ~~area.~~ area and shall use the remainder for tourism-related expenditures.

The following definitions apply in this section:

- (1) Net proceeds. – Gross proceeds less the cost to the city of administering and collecting the tax, as determined by the finance officer, not to exceed ~~seven percent (7%) of the gross proceeds~~ three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – ~~Advertise and market activities, develop and distribute promotional materials, To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, and or engage in other similar promotional activities that attract tourists or business travelers to the area. The term also includes administration of the Mount Airy Tourism Development Authority.~~
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the city by attracting tourists or business travelers to the city. The term includes tourism-related capital expenditures."

BLOWING ROCK OCCUPANCY TAX REVISIONS

SECTION 13. Chapter 171 of the 1987 Session Laws reads as rewritten:

"Section 1. Occupancy tax. = (a) Authorization and scope. = The Blowing Rock Town Council may ~~by resolution, after not less than 10 days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax of three percent (3%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, or similar place within the corporate

limits of the town that is subject to sales tax imposed by the State under ~~G.S. 105-164.4(3)~~, G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations.

(a1) Additional Occupancy Tax. – In addition to the tax authorized by subsection (a) of this section, the Blowing Rock Town Council may levy a room occupancy and tourism development tax of three percent (3%) of the gross receipts derived from the rental of accommodations taxable under that section. The levy, collection, administration, use, and repeal of the tax authorized by this section shall be in accordance with this act. The Town of Blowing Rock may not levy a tax under this section unless it also levies a tax under subsection (a) of this section.

~~(b) Collection. Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the town. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The town shall design, print, and furnish to all appropriate businesses and persons in the town the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the town a discount of three percent (3%) of the amount collected.~~

~~(c) Administration. – A tax levied under this act shall be levied, administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this act. The town shall administer a tax levied under this section. A tax levied under this section is due and payable to the town finance officer in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, or association liable for the tax shall, on or before the 15th day of each month, prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.~~

~~A return filed with the town finance officer under this section is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

~~(d) Penalties. A person, firm, corporation, or association who fails or refuses to file the return required by this section shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the tax due in addition to any other penalty, with an additional tax of five percent (5%) for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade a tax imposed under this section or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

~~(e) Distribution and use of tax revenue. – The Town of Blowing Rock shall retain from the gross proceeds of the tax an amount sufficient to pay its direct costs for administrative and collection expenses, not to exceed three percent (3%) of the gross proceeds. The town council shall, at least once annually, conduct a hearing on the proposed use of the net proceeds of the tax. The amount of the net proceeds shall be reported at the hearing. After the hearing, the town council may remit twenty percent (20%) of the net proceeds reported at the hearing to the Blowing Rock Chamber of Commerce. The Blowing Rock Chamber of Commerce may use the funds remitted to it pursuant to this subsection only to promote tourism within the Town of Blowing Rock.~~

~~The remainder of the net proceeds may be used by the town to enhance the ability of the town to attract tourism, except that the town may not expend any of the net proceeds for general fund operating expenses that are not tourist related or for water and sewer capital or operating expenses that are not tourist related.~~ shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Blowing Rock Tourism Development Authority. The Authority shall use at least two-thirds of the funds remitted to it under this subsection to promote travel and tourism in Blowing Rock and shall use the remainder for tourism-related expenditures.

The following definitions apply in this subsection:

- (1) Net proceeds. – Gross proceeds less the cost to the town of administering and collecting the tax, as determined by the finance officer, not to exceed three percent (3%) of the first five hundred thousand dollars (\$500,000) of gross proceeds collected each year and one percent (1%) of the remaining gross receipts collected each year.
- (2) Promote travel and tourism. – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities.
- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in the town by attracting tourists or business travelers to the town. The term includes tourism-related capital expenditures.

Sec. 1.1. Blowing Rock Tourism Development Authority. – (a) Appointment and membership. – When the Blowing Rock Town Council adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Blowing Rock Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the town, and at least three-fourths of the members must be individuals who are currently active in the promotion of travel and tourism in the town. The town council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The Finance Officer for Blowing Rock shall be the ex officio finance officer of the Authority.

(b) Duties. – The Authority shall expend the net proceeds of the tax levied under this act for the purposes provided in Section 1 of this act. The Authority shall promote travel and tourism in the district and make tourism-related expenditures in the town.

(c) Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Blowing Rock Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the town council may require.

(f) ~~Effective date of levy.~~ A tax levied under this section shall become effective on the date specified in the resolution levying the tax. That date must be the first day of a calendar month, however, and may not be earlier than the first day of the second month after the date the resolution is adopted.

(g) ~~Repeal.~~ A tax levied under this section may be repealed by a resolution adopted by the Blowing Rock Town Council. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the

~~effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.~~

Sec. 2. This act is effective upon ratification."

SECTION 14. G.S. 160A-215(g) reads as rewritten:

"(g) This section applies only to Beech Mountain District W, to the Cities of Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton, Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Kure Beach, Jonesville, Mooresville, North Topsail Beach, Selma, Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in Avery and Brunswick Counties."

SECTION 15. Section 11 of this act becomes effective June 30, 2003. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 30th day of June, 2003.

Beverly E. Perdue
President of the Senate

Richard T. Morgan
Speaker of the House of Representatives