

Senate Bill 398

By: Senator Thompson of the 33rd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act creating a new charter for the City of Powder Springs, approved March 13,
2 1970 (Ga. L. 1970, p. 2760), as amended, particularly by, but not exclusively by, an Act
3 approved March 19, 1987 (Ga. L. 1987, p. 4043), so as to provide for the mayor's or city
4 councilmembers' terms and qualifications for office; to provide for applicability of general
5 law; to provide for election of the city council and mayor; to provide for nonpartisan
6 elections; to provide for election by majority; to provide for special elections; to provide for
7 vacancies; to provide for other provisions; to provide for removal of officers; to repeal
8 conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 An Act creating a new charter for the City of Powder Springs, approved March 13, 1970
12 (Ga. L. 1970, p. 2760), as amended, particularly by, but not exclusively by, an Act approved
13 March 19, 1987 (Ga. L. 1987, p. 4043), by revising Section 2.11 to read as follows:

14 "Section 2.11.

15 City council terms and qualifications for office.

16 Except as otherwise provided in this charter, the mayor and members of the city council
17 shall serve for terms of four years and until their respective successors are elected and
18 qualified. No person shall be eligible to serve as mayor or councilmember unless he or she
19 shall have been a resident of the city for a period of 12 months immediately prior to the
20 date of his or her qualifying for the office of mayor or member of the city council; and the
21 mayor or councilmember shall continue to reside therein during his or her period of service
22 and to be registered and qualified to vote in municipal elections of this city."

SECTION 2.

Said Act is further amended by revising Sections 5.10 through 5.16 as follows:

"Section 5.10.**Applicability of general law.**

Except as otherwise provided by this charter, all primaries and elections shall be held and conducted in conformity so far as applicable with the provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code,' as it now exists or may hereafter be amended. Whenever any time period established by said chapter is altered so as to change or supersede any time period provided in this charter, it shall be considered that said periods in this charter shall be correspondingly changed so as to avoid conflict between the charter and the general law.

Section 5.11.**Election of the city council and mayor.**

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

(b) For the purpose of electing three councilmembers, the City of Powder Springs shall be divided into three wards, each such ward being represented by one councilmember. The councilmember representing each such ward shall be elected only by the electors residing in that ward, and not at large. The wards shall be composed of that territory described in the official map or official description including such alterations as authorized by law on file in the office of the city clerk.

(c) The mayor and the remaining two councilmembers shall be elected at large. The two at-large council positions shall hereafter be known as 'At-Large Council Post 1' and 'At-Large Council Post 2,' respectively. Candidates for election to either of said positions shall, upon qualifying for such election, designate by post number the specific position sought. The mayor and the said two at-large councilmembers shall be elected at the regular municipal election in 2007 and every four years thereafter; shall take office on the first Monday in January following their elections; and shall, except as otherwise provided in this section, serve for a term of four years and until their successors are elected and qualified. The mayor and the said two at-large councilmembers shall have been residents of the City of Powder Springs for a period of 12 months immediately prior to the date of qualifying and shall continue to reside therein during their period of service and shall be registered and qualified to vote in municipal elections of the city.

(d) Each councilmember from Ward 1, Ward 2, and Ward 3 shall be elected from and by the electors of only the ward he or she represents and must be a resident of such ward.

1 Members from Wards 1, 2, and 3 shall be elected at the regular municipal election in 2009
2 and every four years thereafter; and shall, except as otherwise provided by this charter or
3 local law, serve for a term of four years and until their successors are elected and qualified.
4 The councilmembers from Ward 1, Ward 2, and Ward 3 shall have been residents of the
5 city for a period of 12 months immediately prior to the date of qualifying and shall
6 continue to reside therein during their period of service and shall be registered and
7 qualified to vote in municipal elections of the city.

8 Section 5.12.

9 Nonpartisan elections.

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

12 Section 5.13.

13 Election by majority.

14 The candidate receiving a majority of the votes cast for any city office shall be elected. In
15 instances where no candidate receives a majority of the votes cast, a run-off primary or
16 election between the candidates receiving the two highest numbers of votes shall be held.
17 Said run-off primary or election shall be conducted in accordance with Code
18 Section 21-2-501 of the O.C.G.A.

19 Section 5.14.

20 Special election; vacancies.

21 In the event that the office of mayor or councilmember shall become vacant for any cause
22 whatsoever, the mayor and city council or those remaining shall order a special election to
23 fill the balance of the unexpired term of such official; provided, however, if such vacancy
24 occurs within six months of the expiration of the term of that office, the mayor and city
25 council or those remaining shall appoint a successor for the remainder of the term. In all
26 other respects, the special election shall be held and conducted in accordance with Chapter
27 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

28 Section 5.15.

29 Other provisions.

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

1 Section 5.16.

2 Removal of officers.

3 (a) Except as otherwise provided in this charter, the mayor, councilmembers, or other
4 appointed officers provided for in this charter shall be removed from office for any one or
5 more of the following causes:

6 (1) Incompetence, misfeasance, or malfeasance in office;

7 (2) Conviction of a crime involving moral turpitude;

8 (3) Failure at any time to possess any of the qualifications of office as provided by this
9 charter or by law;

10 (4) Knowingly violating any express prohibition of this charter;

11 (5) Abandonment of office or neglect to perform the duties thereof;

12 (6) Failure for any other cause to perform the duties of office as required by this charter
13 or by state law; or

14 (7) Failure to attend four consecutive regular council meetings.

15 (b) The removal of an officer pursuant to this section shall be accomplished by the vote
16 of three officers from the membership of the city council and office of mayor after an
17 investigative hearing. In the event an elected officer is sought to be removed by the action
18 of the mayor and city council, such officer shall be entitled to a written notice specifying
19 the ground or grounds for removal and to a public hearing which shall be held not less than
20 ten days after the service of such written notice. Any elected officer sought to be removed
21 from office as provided in this section shall have the right to appeal from the decision of
22 the mayor and city council to the Superior Court of Cobb County. Such an appeal shall be
23 governed by the same rules as govern appeals to the superior court from the probate court.

24 (c) Recall of public officers is governed by Chapter 4 of Title 21 of the O.C.G.A."

25 **SECTION 3.**

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