

House Bill 634

By: Representatives Wilkerson of the 38th, Ehrhart of the 36th, Bruce of the 61st, Smith of the 41st, Evans of the 42nd, and others

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, so as to provide for city council terms and
3 qualifications for office; to provide for election of the city council and mayor; to provide for
4 the powers and duties of the city manager; to provide for the qualifications of the municipal
5 court judges; to provide for a code of ethics; to provide for related matters; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 An Act creating a new charter for the City of Powder Springs, approved March 13, 1970
10 (Ga. L. 1970, p. 2760), as amended, by striking Section 1.01 through Section 7.15 in their
11 entirety and inserting in lieu thereof the following:

12 "ARTICLE I
13 INCORPORATION AND POWERS.

14 **SECTION 1.10.**

15 Incorporation.

16 This city and the inhabitants thereof are constituted and declared a body politic and
17 corporate under the name and style City of Powder Springs, Georgia, and by that name
18 shall have perpetual succession.

19 **SECTION 1.11.**

20 Corporate boundaries.

21 (a) The boundaries of this city shall be those existing on the effective date of the adoption
22 of this charter and as may be annexed from time to time.

23 (b) Alterations may be made from time to time in the manner provided by law. The
 24 boundaries of this city at all times shall be shown on a map to be retained permanently in
 25 the office of the city clerk and to be designated 'Official Map of the Corporate Limits of
 26 the City of Powder Springs, Georgia.' Photographic, typed, or other copies of such map
 27 certified by the city clerk shall be admitted as evidence in all courts and shall have the same
 28 force and effect as with the original map.

29 (c) The mayor and city council may provide for the redrawing of any such map by
 30 ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall
 31 supersede for all purposes the entire map or maps which it is designated to replace.

32 **SECTION 1.12.**

33 Powers and construction.

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

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

41 **SECTION 1.13.**

42 Examples of power.

43 The powers of the city shall include, but not be limited to, the following:

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

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

53 (3) Building regulations. To regulate and license the erection and construction of
 54 buildings and all other structures; to adopt building, housing, plumbing, electrical, gas,

55 and heating and air-conditioning codes; and to regulate all housing and building trades
56 and provide for enforcement of the same;

57 (4) Business regulation and taxation. To levy and provide for the collection of license
58 fees and taxes on privileges, occupations, trades, and professions; to license and regulate
59 the same; to provide for the manner and method of payment of such license fees and
60 taxes; and to revoke such licenses after due process for the failure to pay any city taxes
61 or fees and provide for enforcement of the same;

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

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

68 (7) Electronic media. To install Wi-Fi or other electronic media capabilities, including
69 the authority to construct, operate, and maintain the same, and to sell or market
70 advertising to defray the cost related thereto;

71 (8) Emergencies. To establish procedures for determining and proclaiming that an
72 emergency situation exists inside or outside the city and to make and carry out all
73 reasonable provisions deemed necessary to deal with or meet such an emergency for the
74 protection, safety, health, or well-being of the citizens of the city;

75 (9) Environmental protection. To protect and preserve the natural resources,
76 environment, and vital areas of the city, the region, and this state through the preservation
77 and improvement of air quality, the restoration and maintenance of water resources, the
78 control of erosion and sedimentation, the management of storm water and establishment
79 of a storm-water utility, the management of solid and hazardous waste, and other
80 necessary actions for the protection of the environment;

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

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

- 91 (12) General health, safety, and welfare. To define, regulate, and prohibit any act,
92 practice, conduct, or use of property which is detrimental to the health, sanitation,
93 cleanliness, welfare, and safety of the inhabitants of the city and to provide for the
94 enforcement of such standards;
- 95 (13) Gifts. To accept or refuse gifts, donations, bequests, or grants from any source for
96 any purpose related to the 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 (14) Health and sanitation. To prescribe standards of health and sanitation and to
99 provide for the enforcement of such standards;
- 100 (15) Jail sentences. To provide that persons given jail sentences in the city's court may
101 work out such sentences in any public works or on the streets, roads, drains, and squares
102 of the city; to provide for the commitment of such persons to any jail; or to provide for
103 the commitment of such persons to any county work camp or county jail by agreement
104 with the appropriate county officials;
- 105 (16) Motor vehicles. To regulate the operation of motor vehicles and exercise control
106 over all traffic, including parking, upon or across the streets, roads, alleys, and walkways
107 of the city, and to have the authority to regulate and enforce ordinances relating to junk
108 or abandoned vehicles;
- 109 (17) Municipal agencies and delegation of power. To create, alter, or abolish
110 departments, boards, offices, commissions, and agencies of the city and to confer upon
111 such agencies the necessary and appropriate authority for carrying out all the powers
112 conferred upon or delegated to the same;
- 113 (18) 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;
- 116 (19) Municipal property ownership. To acquire, dispose of, and hold in trust or
117 otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or
118 outside the property limits of the city;
- 119 (20) Municipal property protection. To provide for the preservation and protection of
120 property and equipment of the city and the administration and use of the same by the
121 public; and to prescribe penalties and punishment for violations thereof;
- 122 (21) Municipal utilities. To acquire, lease, construct, operate, maintain, sell, and dispose
123 of public utilities, including, but not limited to, a system of waterworks, sewers and
124 drains, sewage disposal, gas works, electric light plants, transportation facilities, public
125 airports, and any other public utility; to fix the taxes, charges, rates, fares, fees,
126 assessments, regulations, and penalties therefor; and to provide for the withdrawal of
127 service for refusal or failure to pay the same;

- 128 (22) Nuisances. To define a nuisance and provide for its abatement and to adopt
129 regulations related thereto and enforcement of the same, whether on public or private
130 property;
- 131 (23) Penalties. To provide penalties for violation of any ordinances adopted pursuant to
132 the authority of this charter and the laws of the State of Georgia;
- 133 (24) Planning and zoning. To provide comprehensive city planning for development by
134 zoning; to provide subdivision regulation and development standards; and to enforce the
135 same as the mayor and city council deem necessary and reasonable to ensure a safe,
136 healthy, and esthetically pleasing community;
- 137 (25) Police and fire protection. To exercise the power of arrest through duly appointed
138 police officers and to establish, operate, or contract for a police or fire-fighting agency;
- 139 (26) Public hazards; removal. To provide for the destruction and removal of any
140 building or other structure which is or may become dangerous or detrimental to the
141 public;
- 142 (27) Public improvements. To provide for the acquisition, construction, building,
143 operation, and maintenance of public ways, parks and playgrounds, recreational facilities,
144 cemeteries, markets and market houses, public buildings, libraries, public housing,
145 airports, hospitals, terminals, docks, parking facilities, or charitable, cultural, educational,
146 recreational, conservation, sport, curative, corrective, detentional, penal, and medical
147 institutions, agencies, and facilities; to provide for any other public improvements inside
148 or outside the corporate limits of the city; to regulate the use of public improvements; to
149 provide storm-water facilities, including, but not limited to, regional detention facilities
150 and treatment plants; to provide for the financing, designing, construction, maintenance,
151 and funding related to any of the improvements in this paragraph; and for such purposes,
152 property may be acquired by condemnation under the O.C.G.A. or such other applicable
153 laws as are or may hereafter be enacted;
- 154 (28) Public peace. To provide for the prevention and punishment of drunkenness, riots,
155 and public disturbances;
- 156 (29) Public transportation. To organize and operate such public transportation systems
157 as are deemed beneficial;
- 158 (30) Public utilities and services. To grant franchises or make contracts for public
159 utilities and public services and to prescribe the rates, fares, regulations, standards, and
160 conditions of service applicable to the service to be provided by the franchise grantee or
161 contractor, insofar as not in conflict with valid regulations of the Public Service
162 Commission;
- 163 (31) Regulation of roadside areas. To prohibit or regulate and control the erection,
164 removal, and maintenance of signs, billboards, trees, shrubs, fences, buildings, and any

165 and all other structures or obstructions upon or adjacent to the rights of way of streets and
166 roads or within view thereof, inside or abutting the corporate limits of the city; and to
167 prescribe penalties and punishment for violation of such ordinances;

168 (32) Retirement. To provide and maintain a retirement plan for officers and employees
169 of the city;

170 (33) Roadways. To lay out, open, extend, widen, narrow, establish, or change the grade
171 of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise
172 improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and
173 walkways within the corporate limits of the city; and to grant franchises and rights of way
174 throughout the streets and roads and over the bridges and viaducts for the use of public
175 utilities;

176 (34) Sewer fees. To levy a fee, charge, or sewer tax as necessary to assure the acquiring,
177 constructing, equipping, operating, maintaining, and extending of a sewage disposal plant
178 and sewerage system; to levy on those to whom sewers and sewerage systems are made
179 available a sewer service fee, charge, or tax for the availability or use of the sewers; to
180 provide for the manner and method of collecting such service charge and for enforcing
181 payment of the same; and to charge, impose, and collect a sewer connection fee or fees
182 from those connected with the system;

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

187 (36) Special areas of public regulation. To regulate junk dealers, pawnshops, the
188 manufacture, sale, or transportation of intoxicating liquors, and the use and sale of
189 firearms; to regulate the transportation, storage, and use of combustible, explosive, and
190 inflammable materials, the use of lighting and heating equipment, and any other business
191 or situation which may be dangerous to persons or property; to regulate and control the
192 conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows
193 of any kind; and to license, tax, or regulate professional fortune telling, palmistry, adult
194 bookstores, and massage parlors;

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

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

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

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

205 (41) Urban redevelopment. To organize and operate an urban redevelopment program;
 206 and

207 (42) Other powers. To establish and enjoy all other powers, functions, rights, privileges,
 208 and immunities necessary or desirable to promote or protect the safety, health, peace,
 209 security, good order, comfort, convenience, or general welfare of the city and its
 210 inhabitants; to exercise all implied powers necessary to carry into execution all powers
 211 granted in this charter as fully and completely as if such powers were fully stated in this
 212 charter; and to exercise all powers now or in the future authorized to be exercised by
 213 other municipal governments under, but not limited to, other laws of the State of Georgia;
 214 and no listing of particular powers in this charter shall be held to be exclusive of others,
 215 nor restrictive of general words and phrases granting powers, but shall be held to be in
 216 addition to such powers unless expressly prohibited to municipalities under the
 217 Constitution or applicable laws of the State of Georgia.

218 **SECTION 1.14.**

219 Exercise of powers.

220 All powers, functions, rights, privileges, and immunities of the city, its officers, agencies,
 221 or employees shall be carried into execution as provided by this charter. If this charter
 222 makes no provision, such shall be carried into execution as provided by ordinance or as
 223 provided by pertinent laws of the State of Georgia.

224 **ARTICLE II**

225 **GOVERNMENT STRUCTURE**

226 **SECTION 2.10.**

227 City council creation; number; election.

228 The legislative authority of the government of this city, except as otherwise specifically
 229 provided in this charter, shall be vested in a mayor and five councilmembers. The mayor
 230 and councilmembers shall be elected in the manner provided by this charter.

231 **SECTION 2.11.**

232 City council terms and qualifications for office.

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

240 **SECTION 2.12.**

241 Vacancies; filling of vacancies.

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

245 (b) A vacancy in the office of mayor or councilmember shall be filled for the remainder
 246 of the unexpired term, if any, as provided for in this charter.

247 **SECTION 2.13.**

248 Compensation and expenses.

249 The mayor and councilmembers shall receive compensation and expenses for their services
 250 as provided by ordinance, subject to Georgia law.

251 **SECTION 2.14.**

252 Code of ethics.

253 (a) It is the policy of the city that the proper operation of democratic government requires
 254 that public officials be independent, impartial, and responsible to the people; that
 255 governmental decisions and policy be made in proper channels of the governmental
 256 structure; that public office not be used for personal gain; and that the public have
 257 confidence in the integrity of its government. In recognition of these goals, a code of ethics
 258 for all city officials is adopted.

259 (b) This code has the following purposes:

260 (1) To encourage high ethical standards in official conduct by city officials;

- 261 (2) To establish guidelines for ethical standards of conduct for all such officials by
 262 setting forth those acts or actions that are incompatible with the best interest of the city;
 263 (3) To require disclosure by such officials of private financial or other interest in
 264 manners affecting the city; and
 265 (4) To serve as a basis for disciplining those who refuse to abide by its terms.

266 The provisions of this section shall not apply to political contributions, loans, expenditures,
 267 reports, or regulation of political campaigns or the conduct of candidates in such
 268 campaigns.

269 (c) The provisions of this code of ethics shall be applicable to the mayor, all members of
 270 the city council, planning and zoning commission, all advisory commissions, committee
 271 members, and staff.

272 (d) As used in this section, the following terms shall have the following meanings, unless
 273 the context clearly indicates that a different meaning is intended:

274 (1) 'City official' or 'official,' unless otherwise expressly defined, means the mayor,
 275 members of the city council, municipal court judges including substitute judges, city
 276 manager, assistant city managers, city clerk, deputy city clerks, and all other persons
 277 holding positions designated by the city charter, as it may be amended from time to time,
 278 whether such person is salaried, hired, or elected. City official, unless otherwise
 279 expressly defined, includes individuals appointed by the mayor and city council to all city
 280 commissions, committees, boards, or other city bodies unless specifically exempted from
 281 this section by the city council.

282 (2) 'Decision' means any ordinance, resolution, contract, franchise, formal action, or
 283 other matter voted on by the city council or other city board or commission, as well as the
 284 discussions or deliberations of the city council, board, or commission which can or may
 285 lead to a vote or formal action by such body.

286 (3) 'Discretionary authority' means the power to exercise any judgment in a decision or
 287 action.

288 (4) 'Entity' means a sole proprietorship, partnership, limited partnership, firm,
 289 corporation, professional corporation, holding company, joint stock company,
 290 receivership, trust, or any other entity recognized by law through which business may be
 291 conducted.

292 (5) 'Immediate family' means spouse, mother, father, brother, sister, son, or daughter of
 293 any city official or staff.

294 (6) 'Incidental interest' means an interest in a person, entity, or property which is not a
 295 substantial interest.

296 (7) 'Remote interest' means an interest in a person or entity, including a city official or
 297 staff, which would be affected in the same way as the general public.

298 (8) 'Substantial interest' means a known interest, either directly or through a member of
299 the immediate family, in another person or entity which must consist of:

300 (A) Ownership of 5 percent or more of the voting stock, shares, or equity of the entity
301 or ownership of \$5,000.00 or more of the equity or market value of the entity;

302 (B) Funds received by the person from the other person or entity either during the
303 previous 12 months or the previous calendar year equaling or exceeding \$5,000.00 in
304 salary, bonuses, commissions, or professional fees, \$5,000.00 in payment for goods,
305 products, or nonprofessional services, or 10 percent of the recipient's gross income
306 during that period, whichever is less;

307 (C) The person serving as a corporate officer or member of the board of directors or
308 other governing board of the for profit entity other than a corporate entity owned or
309 created by the city council; or

310 (D) The person being a creditor, debtor, or guarantor of the other person or entity in
311 an amount of \$5,000.00 or more.

312 Substantial interest in real property means an interest in real property which is an
313 equitable or legal ownership with a market value of \$5,000.00 or more. Substantial
314 interest shall further mean the interest of a city official who is being treated differently
315 than the general public on matters involving the property tax rate, general city fees, city
316 utility charges, or a comprehensive zoning ordinance, or a similar decision is a substantial
317 interest affecting specifically staff, including all employees, either full or part time of the
318 City of Powder Springs.

319 (e)(1) No city official or staff shall use such position to secure special privileges or
320 exemptions for such person or others, or to secure confidential information for any
321 purpose other than official responsibilities. Furthermore, no city official or staff shall
322 divulge any confidential information concerning any official or employee, or any other
323 person, or any property or governmental affairs of the city to any person who is not
324 authorized to have it nor divulge to any unauthorized person confidential information
325 acquired in the course of holding his or her position in advance of the time prescribed by
326 the city council, administrators, or other applicable law for its release to the public.

327 (2) No city official, in any matter before the city council, board, or commission in which
328 he or she has a substantial interest, shall fail to disclose in writing to the city clerk for the
329 common good for the record such interest prior to any discussion or vote.

330 (3) No city official or staff shall act as an agent or attorney for another in any matter
331 before the city council or any board or commission.

332 (4) No city official or staff shall directly or indirectly receive, or agree to receive, any
333 compensation, gift, reward, or gratuity in any matter or proceeding connected with, or
334 related to, the duties of his or her office except as may be provided by law.

335 Entertainment, meals, and gifts with a total value of less than \$150.00 per event shall not
336 be deemed to be a violation of these rules of conduct.

337 (5) No city official or staff shall enter into any contract with the city except as
338 specifically authorized by state statutes or city ordinance. Any city official or staff who
339 has a proprietary interest in an agency doing business with the city shall make known that
340 interest in writing to the city council and the city clerk.

341 (6) All public funds shall be used for the general welfare of the people and not for
342 personal economic gain.

343 (7) Public property shall be disposed of in accordance with Georgia law.

344 (8) No elected city official shall solicit or accept other employment to be performed or
345 compensation to be received while still a city official or employee, if the employment or
346 compensation could reasonably be expected to impair in judgment or performance of city
347 duties.

348 (9) If a city official or staff accepts or is soliciting a promise of future employment from
349 any person or entity who has a substantial interest in a person, entity, or property which
350 would be affected by any decision upon which the official might reasonably be expected
351 to act, investigate, advise, or make a recommendation, the official shall disclose the fact
352 to the board or commission on which he or she serves or to his or her supervisor and shall
353 take no further action on matters regarding the potential future employer.

354 (10) Except as otherwise provided by city ordinance, no city official or staff shall use
355 city facilities, personnel, equipment, or supplies for private purposes.

356 (11) No city official or staff shall grant or make available to any person any
357 consideration, treatment, advantage, or favor beyond that which it is the general practice
358 to grant or make available to the public at large.

359 (12) No city official or staff shall release information imparted or received during any
360 executive session.

361 (f) A city official or staff may not participate in a vote or decision on a matter affecting a
362 person, entity, or property in which the official or staff has a substantial interest; in
363 addition, a city official or staff who serves as a corporate officer or member of the board
364 of directors of a nonprofit entity may not participate in a vote or decision regarding funding
365 by or through the city of the entity. Where the interest of a city official or staff in the
366 subject matter of a vote or decision is remote or incidental, the city official or staff may
367 participate in the vote or decision and need not disclose the interest.

368 (g) This code of ethics shall not be construed to require the filing of any information
369 relating to any person's connection with, or interest in, any professional society or any
370 charitable, religious, social, fraternal, educational, recreational, public service, civil, or
371 political organization, or any similar organization which is not conducted as a business

372 enterprise governmental agency nor engaged in the ownership or conduct of a business
 373 enterprise or governmental agency.

374 (h)(1) The provisions of this ordinance are severable. If any provision of this section or
 375 the application thereof to any person or circumstance is held invalid, such invalidity shall
 376 not affect other provisions or applications of this ordinance which can be given effect
 377 without the invalid provisions or application.

378 (2) Any persons violating any provisions of this policy are subject to:

379 (A) For a city official, written and oral reprimand by the city council, board,
 380 commission, or committee of which such violator a member;

381 (B) For staff, written and oral reprimand, suspension, and dismissal;

382 (C) A fine greater than \$100.00 but less than \$500.00 to be imposed by the city
 383 council, commission, board, or committee of which the violator is a member; and

384 (D) Request for resignation by the city council, board, committee, or commission of
 385 which the violator is a member.

386 (3) All staff and other persons covered shall sign a document verifying that they have
 387 read and will abide by the terms of this charter. The city council, board, commission, or
 388 committee shall have authority to establish rules and regulations to impose said penalties.

389 (i) Any city official who is sanctioned under this section shall have a right of appeal from
 390 the action taken by the city council, board, committee, or commission to the Superior Court
 391 of Cobb County. Such appeal shall be governed by the same procedures as govern appeals
 392 to the superior court from the probate court.

393 **SECTION 2.15.**

394 Inquiries and investigations.

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

400 **SECTION 2.16.**

401 General power and authority of the mayor and city council.

402 Except as otherwise provided by this charter, the mayor and city council shall be vested
 403 with all the powers of government of this city as provided by Article I of this charter.

404 **SECTION 2.17.**

405 Eminent domain.

406 The mayor and city council are empowered to acquire, construct, operate, and maintain
407 public ways, parks, public grounds, cemeteries, markets and market houses, public
408 buildings, libraries, sewers, drains, sewage treatment, waterworks, electrical systems,
409 electronic media, gas systems, airports, hospitals, and charitable, educational, recreational,
410 sport, curative, corrective, detentional, penal, and medical institutions, agencies, and
411 facilities, and any other public improvements inside or outside the city, and to regulate the
412 use thereof and, for such purposes, property may be condemned under procedures
413 established under general law applicable now or as provided in the future.

414 **SECTION 2.18.**

415 Organizational meetings.

416 The mayor and city council shall hold an organizational meeting on the first Monday in
417 January. If January 1 of any year falls on a Sunday or Monday, then the mayor and city
418 council shall meet and convene on the following Tuesday. The meeting shall be called to
419 order by the city clerk or judge, and all oaths required by law shall be administered to the
420 mayor and any newly elected members.

421 **SECTION 2.19.**

422 Regular and special meetings.

423 (a) The mayor and city council shall hold regular meetings at such times and places as
424 prescribed by ordinance.

425 (b) Special meetings of the mayor and city council may be held on call of the mayor or
426 three members of the city council. Notice of such special meetings shall be served on all
427 members personally, by telephone personally, or by electronic means at least 24 hours in
428 advance of the meeting. Such notice to councilmembers shall not be required if the mayor
429 and all councilmembers are present when the special meeting is called. Such notice of any
430 special meeting may be waived by a councilmember in writing before or after such a
431 meeting, and attendance at the meeting shall also constitute a waiver of notice on any
432 business transacted in such councilmember's presence. Only the business stated in the call
433 may be transacted at the special meeting.

434 (c) All meetings of the mayor and city council shall be public to the extent required by
435 law, and notice to the public of special meetings shall be made fully as is reasonably
436 possible one day prior to such meetings.

437 **SECTION 2.20.**

438 Rules of procedure.

439 (a) The mayor and city council shall adopt rules of procedure and order of business
440 consistent with the provisions of this charter and shall provide for keeping minutes of their
441 proceedings which shall be public records.

442 (b) All committees and committee chairpersons of the city council shall be appointed by
443 the mayor and shall serve at the pleasure of the mayor. The mayor shall have the power
444 to appoint new members to any committee at any time.

445 (c) Liaisons to committees and boards which may be appointed by the mayor shall be
446 Water and Sewer, Finance, Sanitation, Police, Planning and Zoning Commission, Ford
447 Center Board, Keep Powder Springs Beautiful, Downtown Development Authority,
448 Education, Development Authority of Powder Springs, and any other committee which the
449 mayor shall deem necessary.

450 **SECTION 2.21.**

451 Quorum: voting.

452 Three councilmembers shall constitute a quorum and shall be authorized to transact
453 business of the city council. Voting on the adoption of ordinances shall be by voice vote
454 or by show of hands and the vote shall be recorded in the minutes, but any member of the
455 city council shall have the right to request a roll-call vote and such vote shall be recorded
456 in the minutes. Except as otherwise provided in this charter, the affirmative vote of three
457 councilmembers shall be required for the adoption of any ordinance, resolution, or motion.

458 **SECTION 2.22.**

459 Action requiring an ordinance.

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

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SECTION 2.23.

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Ordinance form; procedures.

464

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be 'The Council of the City of Powder Springs hereby ordains . . . '

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(b) An ordinance may be introduced by any councilmember, and a summary of such ordinance shall be read at a regular or special meeting of the mayor and city council.

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Ordinances shall be considered and adopted or rejected by the mayor and city council in accordance with the rules which the mayor and city council shall establish.

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(c) Upon introduction of any ordinance, the city clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the city clerk and at such other public places as the mayor and city council may designate.

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SECTION 2.24.

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Emergencies.

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To meet a public emergency affecting life, health, property, or public peace, the mayor and city council may convene on call of the mayor or three 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.

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SECTION 2.25.

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Codes of technical regulations.

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

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(1) The requirements of subsection (c) of Section 2.23 of this charter for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations as well as adopting ordinances; and

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

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(b) Copies of any adopted code of technical regulations shall be made available by the city clerk for distribution or for purchase at a reasonable price as fixed by the mayor and city council but in any event not to exceed that amount prescribed by applicable state law.

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SECTION 2.26.

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Signing; authenticating; recording; codification; printing.

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

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(b) The mayor and city council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the mayor and city council by ordinance and shall be published promptly together with all amendments thereto and such codes of technical regulations and other rules and regulations as the mayor and city council may specify. This compilation shall be known and cited officially as 'The Code of the City of Powder Springs, Georgia.' Copies of the code shall be furnished to all officers, departments, and agencies of the city and shall be made available for purchase by the public at a reasonable price as fixed by the mayor and city council.

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(c) The mayor and city council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the mayor and city council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable

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528 in form for incorporation therein. The mayor and city council shall make such further
529 arrangements as are deemed desirable for reproduction and distribution of any current
530 changes in or additions to codes of technical regulations and other rules and regulations
531 included in the code.

532 **SECTION 2.27.**

533 City manager; appointment; qualifications; compensation.

534 The mayor and city council shall appoint a city manager for an indefinite term and shall fix
535 his or her compensation. The city manager shall be appointed solely on the basis of his or
536 her executive and administrative qualifications and shall serve at the pleasure of the mayor
537 and city council.

538 **SECTION 2.28.**

539 Removal of city manager.

540 (a) The mayor and city council may remove the city manager from office in accordance
541 with the following procedures:

542 (1) The mayor and city council shall adopt by affirmative vote of a majority of the
543 members of the city council and mayor a preliminary resolution which must state the
544 reasons for removal and may suspend the city manager from duty for a period not to
545 exceed 45 days. A copy of the resolution shall be delivered promptly to the city manager;

546 (2) Within five days after a copy of the resolution is delivered to the city manager, he or
547 she may file with the mayor and city council a written request for a public or private
548 hearing. This hearing shall be held within 30 days after the request is filed. The city
549 manager may file with the mayor and city council a written reply not later than five days
550 before the hearing; and

551 (3) If the city manager has not requested a public or private hearing within the time
552 specified in paragraph (2) of this subsection, the mayor and city council may adopt a final
553 resolution for removal, which may be made effective immediately, by an affirmative vote
554 of a majority of the members of the city council and mayor. If the city manager has
555 requested a public or private hearing, the mayor and city council may adopt a final
556 resolution for removal, which may be made effective immediately, by an affirmative vote
557 of a majority of the members of the city council and mayor at any time after the public
558 or private hearing.

559 (b) The city manager shall continue to receive his or her salary until the effective date of
560 a final resolution of removal. Upon removal from office for cause, the city manager shall

561 not receive any severance pay as defined in his or her contract. For removal from this
 562 appointive office for any noncause related reason, the city manager shall not be entitled to
 563 more than 60 days severance pay.

564 **SECTION 2.29.**

565 Acting city manager.

566 By letter filed with the city clerk, the city manager shall designate, subject to approval of
 567 the mayor and city council, a qualified city administrative officer to exercise the powers
 568 and perform the duties of city manager during his or her temporary absence or disability
 569 or should he or she be unavailable by cell phone or other electronic means for a period of
 570 four hours. Whenever the designated qualified city administrative officer must assume the
 571 duties of acting city manager, the mayor and city council shall be notified immediately.
 572 During such absence or disability, the mayor and city council may revoke such designation
 573 at any time and appoint another officer of the city to serve until the city manager shall
 574 return or his or her disability shall cease.

575 **SECTION 2.30.**

576 Powers and duties of the city manager.

577 The city manager shall be the chief administrative officer of the city. He or she shall be
 578 responsible to the mayor and city council for the administration of all city affairs placed
 579 in his or her charge by or under this charter. He or she shall have the following powers and
 580 duties:

581 (1) He or she shall appoint and, when he or she deems it necessary for the good of the
 582 city, suspend or remove all city employees and administrative officers he or she appoints,
 583 except as otherwise provided by law or personnel ordinances adopted pursuant to this
 584 charter. He or she may authorize any administrative officer who is subject to his or her
 585 direction and supervision to exercise these powers with respect to subordinates in such
 586 officer's department, office, or agency;

587 (2) He or she shall direct and supervise the administration of all departments, offices, and
 588 agencies of the city, except as otherwise provided by this charter or by law;

589 (3) He or she shall attend all city council meetings and shall have the right to take part
 590 in discussion but shall not vote;

591 (4) He or she shall see that all laws, provisions of this charter, and acts of the mayor and
 592 city council subject to enforcement by him or her or by officers subject to his or her
 593 direction and supervision are faithfully executed;

594 (5) He or she shall prepare and submit the annual operating budget and capital budget
 595 to the mayor and city council which shall also include an organizational chart depicting
 596 job functions and pay grades;

597 (6) He or she shall submit to the mayor and city council and make available to the public
 598 a complete report on the finances and administrative activities of the city as of the end of
 599 each fiscal year;

600 (7) He or she shall make such other reports as the mayor and city council may require
 601 concerning the operations of city departments, offices, and agencies subject to his or her
 602 direction and supervision;

603 (8) He or she shall keep the mayor and city council fully advised as to the financial
 604 condition and future needs of the city and make such recommendations to the mayor and
 605 city council concerning the affairs of the city as he or she deems desirable; and

606 (9) He or she shall perform such other duties as are specified in this charter or as may be
 607 required by the mayor and city council.

608 **SECTION 2.31.**

609 City council interference with administration.

610 Except for the purpose of inquiries and investigations under Section 2.15 of this charter,
 611 the mayor and members of the city council shall deal with city officers and employees who
 612 are subject to the direction and supervision of the city manager solely through the city
 613 manager, and neither the mayor nor members of the city council shall give orders to any
 614 such officer or employee, either publicly or privately. In the case of a city emergency
 615 involving public health or safety and in the absence of the city manager, the mayor or a
 616 councilmember may direct activities as appropriate.

617 **SECTION 2.32.**

618 Powers and duties of mayor.

619 The mayor shall:

620 (1) Preside at all meetings of the mayor and city council;

621 (2) Have a vote only in the case of a tie vote by councilmembers;

622 (3) Have veto power as specified in Section 2.33 of this charter;

623 (4) Be the head of the city for the purpose of service of process and for ceremonial
 624 purposes and be the official spokesman for the city and the chief advocate of policy;

625 (5) Have power to administer oaths and to take affidavits; and

626 (6) Sign as a matter of course on behalf of the city all written and approved contracts,
 627 ordinances, and other instruments executed by the city which by law are required to be
 628 in writing.

629 **SECTION 2.33.**

630 Veto power of mayor.

631 (a) The mayor shall have four business days after meetings of the city council in which to
 632 file with the city clerk in writing his or her veto.

633 (b) The city council may at any meeting in which the mayor files his or her veto or any
 634 subsequent or special meeting within 30 days pass any such ordinance, order, or resolution,
 635 notwithstanding the veto, by an affirmative vote of four councilmembers.

636 **SECTION 2.34.**

637 Selection of mayor pro tempore.

638 By a majority vote of all its members, the city council shall elect a councilmember to serve
 639 as mayor pro tempore, who shall serve at the pleasure of the city council. The mayor pro
 640 tempore shall continue to vote and otherwise participate as a councilmember.

641 **SECTION 2.35.**

642 Mayor pro tempore.

643 During the absence of the mayor for any cause, the mayor pro tempore or, in his or her
 644 absence for any reason, any one of the councilmembers chosen by a majority vote of the
 645 city council shall be vested with all the rights and privileges of the mayor and shall perform
 646 the duties of the office of the mayor so long as such absence shall continue.

647 **ARTICLE III**

648 **ADMINISTRATIVE AFFAIRS**

649 **SECTION 3.10.**

650 Administrative and service departments.

651 (a) Except as otherwise provided in this charter, the city manager shall prescribe the
 652 functions or duties and establish, abolish, or alter all nonelective offices, positions of
 653 employment, departments, and agencies of the city as necessary for the proper

654 administration of the affairs and government of this city, subject to the right of the mayor
655 and city council to adopt such changes as it deems necessary and appropriate.

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

659 (c) All appointed officers, directors of departments, and staff shall receive such
660 compensation as prescribed by the city's pay grade classification.

661 (d) There shall be a director of each department who shall be its principal officer. Each
662 director shall, subject to the direction and supervision of the city manager, be responsible
663 for the administration and direction of the affairs and operations of his or her department.

664 (e) All directors shall be nominated by the city manager with confirmation by the mayor
665 and city council. The city manager may suspend or remove directors under his or her
666 supervision, but such suspension or removal shall not be effective for three calendar days
667 following the city manager's giving written notice of such action and the reasons therefor
668 to the director involved and to the mayor and city council. The director involved may
669 appeal as prescribed by the city's personnel policy manual, as may be amended from time
670 to time. The city manager shall be entitled to hire such other personnel, excluding
671 directors, subject to the city organizational chart and budgetary authorization as is approved
672 as part of the annual budget approval process.

673 (f) The city clerk, while appointed by the mayor and city council, shall be subject to the
674 direction and supervision of the city manager.

675 **SECTION 3.11.**

676 **Boards, commissions, and authorities.**

677 (a) The mayor and city council shall create by ordinance such boards, commissions, and
678 authorities to fulfill any investigative, quasi-judicial, or quasi-legislative function the
679 mayor and city council deem necessary and shall by ordinance establish the composition,
680 period of existence, duties, and powers thereof.

681 (b) All members of boards, commissions, and authorities of the city shall be appointed by
682 the mayor and city council for such terms of office and in such manner as shall be provided
683 by ordinance, except where other appointing authority, terms of office, or manner of
684 appointment is prescribed by this charter or by law.

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

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

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

693 (f) No member of a board, commission, or authority shall assume office until he or she has
694 executed and filed with the city clerk an oath obligating such member to perform faithfully
695 and impartially the duties of his or her office, and such oath shall be prescribed by
696 ordinance and administered by the mayor.

697 (g) Any member of a board, commission, or authority may be removed from office by a
698 vote of three members of the city council and the mayor, except as otherwise provided by
699 state law.

700 (h) Except as otherwise provided by this charter or by law, each board, commission, or
701 authority of the city shall elect one of its members as chairperson and one member as vice
702 chairperson and may elect as its secretary one of its own members or may appoint as
703 secretary an employee of the city. Each board, commission, or authority of the city
704 government may establish such bylaws, rules, and regulations, not inconsistent with this
705 charter, ordinances of the city, or law, as it deems appropriate and necessary for the
706 fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and
707 regulations shall be filed with the city clerk.

708 **SECTION 3.12.**

709 City attorney.

710 The mayor and city council shall appoint a city attorney, together with such assistant city
711 attorneys as may be authorized, and shall provide for the payment of such attorney or
712 attorneys for services rendered to the city. The city attorney shall be responsible for
713 representing and defending the city in all litigation in which the city is a party; may be the
714 prosecuting officer in the municipal court; shall attend the meetings of the city council as
715 directed; shall advise the city council, mayor, and other officers or employees of the city
716 concerning legal aspects of the city's affairs; and shall perform such other duties as may be
717 required of him or her by virtue of his or her position as city attorney.

718 **SECTION 3.13.**

719 City clerk.

720 The mayor and city council may appoint a city clerk who shall not be a councilmember.
 721 The city clerk shall be custodian of the official city seal, maintain the city council records
 722 required by this charter, and perform such other duties as may be required by the mayor
 723 and city council.

724 **SECTION 3.14.**

725 Position classification and pay plans.

726 The city manager shall be responsible for the preparation of a position classification and
 727 pay plan which shall be submitted to the mayor and city council for approval. Such plans
 728 may apply to all employees of the city and any of its agencies, departments, boards,
 729 commissions, or authorities. When a pay plan has been adopted, the mayor and city
 730 council shall not increase or decrease the salary range applicable to any position except by
 731 amendment of such pay plan. For purposes of this section, the chief judge and city attorney
 732 are not considered to be city employees.

733 **SECTION 3.15.**

734 Personnel policies.

735 The city manager shall prepare and the mayor and city council shall consider and adopt
 736 rules and regulations consistent with this charter concerning:

- 737 (1) The method of employee selection and probationary periods of employment;
 738 (2) The administration of the position classification and pay plan, methods of promotion
 739 and application of service ratings thereto, and transfer of employees within the
 740 classification plan;
 741 (3) Hours of work, vacation, sick leave and other leaves of absence, overtime pay, and
 742 the order and manner in which layoffs shall be effected;
 743 (4) Such dismissal hearings as due process may require; and
 744 (5) Such other personnel notices as may be necessary to provide for adequate and
 745 systematic handling of personnel affairs.

777 **SECTION 4.12.**

778 Convening.

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

780 **SECTION 4.13.**

781 Jurisdiction; powers.

782 (a) The municipal court shall try and punish violations of this charter, all city ordinances,
783 and such other violations as provided by law.784 (b) The municipal court shall have authority to punish those in its presence for contempt.
785 Such punishment shall not exceed the maximum amount or penalties including public
786 incarceration as set forth in Georgia law as may be amended from time to time, including
787 surcharges as required by law.788 (c) The municipal court may fix punishment for offenses within its jurisdiction not
789 exceeding the fine or incarceration prescribed by Georgia law as may be amended from
790 time to time or alternative sentencing as may be provided by law.791 (d) The municipal court shall have authority to establish a schedule of fees to defray the
792 cost of operation and shall be entitled to reimbursements of the cost of meals,
793 transportation, and caretaking of prisoners bound over to other courts for violations of state
794 law.795 (e) Consistent with Georgia law, the mayor and city council shall have authority to
796 establish bail and recognizance to ensure the presence of those charged with violations
797 before said court and shall have discretionary authority to accept cash or personal or real
798 property as surety for the appearance of persons charged with violations. Whenever any
799 person shall give bail for his or her appearance and shall fail to appear at the time fixed for
800 trial, his or her bond shall be forfeited by the judge presiding at such time and an execution
801 shall be issued thereon by serving the defendant and his or her sureties with a rule nisi at
802 least two days before a hearing on the rule nisi. In the event that cash or property is
803 accepted in lieu of bond for security for the appearance of a defendant at trial and if such
804 defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be
805 on order of the judge declared forfeited to the city or the property so deposited shall have
806 a lien against in for the value forfeited, which shall be enforceable in the same manner and
807 to the same extent as a lien for city property taxes.808 (f) The municipal court shall have the authority to compel the production of evidence in
809 the possession of any party; to enforce obedience to its orders, judgments, and sentences;
810 and to administer such oaths as are necessary.

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

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

818 (i) The municipal court is specifically vested with all the jurisdiction and powers
819 throughout the geographic area of this city granted by law to municipal courts and
820 particularly by such laws as authorize the abatement of nuisances and prosecution of traffic
821 violations.

822 **SECTION 4.14.**

823 Certiorari.

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

828 **SECTION 4.15.**

829 Rules for court.

830 With the approval of the mayor and city council, the judge shall have full power and
831 authority to make reasonable rules and regulations necessary and proper to secure the
832 efficient and successful administration of the municipal court; provided, however, that the
833 mayor and city council may adopt in part or in toto the rules and regulations applicable to
834 superior courts. The rules and regulations made or adopted shall be filed with the city
835 clerk, shall be available for public inspection, and, upon request, a copy shall be furnished
836 to all defendants in municipal court proceedings at least 48 hours prior to such proceedings.

871 noncontiguous part shall instead be included within that ward contiguous to such part
 872 which contains the least population according to the United States decennial census of
 873 2000 for the State of Georgia.

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

886 (e) Each councilmember from Ward 1, Ward 2, and Ward 3 shall be elected from and by
 887 the electors of only the ward he or she represents and shall be a resident of such ward.
 888 Members from Wards 1, 2, and 3 shall be elected at the regular municipal election in 2009
 889 and every four years thereafter and shall, except as otherwise provided by this charter or
 890 local law, serve for a term of four years and until their successors are elected and qualified.
 891 The councilmembers from Ward 1, Ward 2, and Ward 3 shall have been residents of the
 892 city for a period of 12 months immediately prior to the date of qualifying and shall
 893 continue to reside therein during their period of service and shall be registered and
 894 qualified to vote in municipal elections of the city.

895 **SECTION 5.12.**

896 Nonpartisan elections.

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

899 **SECTION 5.13.**

900 Election by majority.

901 The candidate receiving a majority of the votes cast for any city office shall be elected. In
 902 instances where no candidate receives a majority of the votes cast, a run-off primary or
 903 election between the candidates receiving the two highest numbers of votes shall be held.

904 Such run-off primary or election shall be conducted in accordance with Code
905 Section 21-2-501 of the O.C.G.A.

906 **SECTION 5.14.**

907 Special election, vacancies.

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

915 **SECTION 5.15.**

916 Other provisions.

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

920 **SECTION 5.16.**

921 Removal of officers.

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

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

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

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

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

930 (5) Failure for any other cause to perform the duties of office as required by this charter
931 or by state law; or

932 (6) Failure to attend four consecutive regular city council meetings.

933 (b) The removal of an officer pursuant to this section shall be accomplished by the vote
934 of three members of the city council and mayor after an investigative hearing. In the event

935 an elected officer is sought to be removed by the action of the mayor and city council, such
 936 officer shall be entitled to a written notice specifying the ground or grounds for removal
 937 and to a public hearing which shall be held not less than ten days after the service of such
 938 written notice. Any elected officer sought to be removed from office as provided in this
 939 section shall have the right of appeal from the decision of the mayor and city council to the
 940 Superior Court of Cobb County. Such an appeal shall be governed by the same rules as
 941 govern appeals to the superior court from the probate court.

942 (c) Recall of public officers is governed by Chapter 4 of Title 21 of the O.C.G.A., the
 943 'Recall Act of 1989.'

944 **ARTICLE VI**
 945 **FINANCE**
 946 **SECTION 6.10.**
 947 **Property tax.**

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

954 **SECTION 6.11.**
 955 **Millage rate; due dates; payment methods.**

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

961 **SECTION 6.12.**
 962 **Occupation and business taxes.**

963 Subject to Georgia law, and as may be amended from time to time, the mayor and city
 964 council by ordinance shall have the power to levy such occupation or business taxes as are
 965 not denied by law. Such taxes may be levied on both individuals and corporations who

966 transact business in this city or who practice or offer to practice any profession or calling
 967 within the city to the extent such persons have a constitutionally sufficient nexus to this city
 968 to be so taxed. The mayor and city council may classify businesses, occupations,
 969 professions, or callings for the purpose of such taxation in any way which may be lawful
 970 and may compel the payment of such taxes as provided in Section 6.18 of this charter.

971 **SECTION 6.13.**

972 Licenses; permits; fees.

973 Subject to Georgia law, and as may be amended from time to time, the mayor and city
 974 council by ordinance shall have the power to require any individual or corporation who
 975 transacts business in the city or who practices or offers to practice any profession or calling
 976 within the city to obtain a license or permit for such activity from the city and to pay a
 977 reasonable fee for such license or permit where such activities are not now regulated by
 978 general law in such a way as to preclude city regulations. Such fees may reflect the total
 979 cost to the city of regulating the activity and, if unpaid, shall be collected as provided in
 980 Section 6.18 of this charter. The mayor and city council may establish by ordinance
 981 reasonable requirements for obtaining or keeping such licenses as the public health, safety,
 982 and welfare necessitate.

983 **SECTION 6.14.**

984 Franchises.

985 Subject to Georgia law, and as may be amended from time to time, the mayor and city
 986 council shall have the power to grant franchises for the use of this city's streets and alleys
 987 for the purposes of railroads, street railways, telephone companies, electric companies,
 988 cable television companies, gas companies, transportation companies, and other similar
 989 organizations. The mayor and city council shall determine the duration, terms, whether the
 990 same shall be exclusive or nonexclusive, and the consideration for such franchises;
 991 provided, however, that no franchise shall be granted for a period in excess of 30 years and
 992 no franchise shall be granted unless the city receives just and adequate compensation
 993 therefor. The mayor and city council shall provide for the registration of all franchises with
 994 the city clerk in a registration book kept by him or her. The mayor and city council may
 995 provide by ordinance for the registration within a reasonable time of all franchises
 996 previously granted.

997 **SECTION 6.15.**

998 Service charges.

999 The mayor and city council by ordinance shall have the power to assess and collect fees,
1000 charges, and tolls for sewers, sanitary and health services, or any other services provided
1001 or made available inside or outside the corporate limits of the city for the total cost to the
1002 city of providing or making available such services. If unpaid, such charges shall be
1003 collected as provided in Section 6.18 of this charter.

1004 **SECTION 6.16.**

1005 Special assessments.

1006 The mayor and city council by ordinance shall have the power to assess and collect the
1007 costs of constructing, reconstructing, widening, or improving any public way, street,
1008 sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the
1009 abutting property owners under such terms and conditions as are reasonable. If unpaid,
1010 such charges shall be collected as provided in Section 6.18 of this charter.

1011 **SECTION 6.17.**

1012 Construction; other taxes.

1013 The city shall be empowered to levy any other tax allowed now or hereafter by law, and
1014 the specific mention of any right, power, or authority in this article shall not be construed
1015 as limiting in any way the general powers of this city to govern its local affairs.

1016 **SECTION 6.18.**

1017 Collection of delinquent taxes and fees.

1018 The mayor and city council may provide generally by ordinance for the collection of
1019 delinquent taxes, fees, or other revenue due the city under Sections 6.10 through 6.17 of
1020 this charter by whatever reasonable means as are not precluded by law. This shall include
1021 providing for the dates when the taxes or fees are due, late penalties or interest, issuance
1022 and execution of fi. fas., creation and priority of liens, making delinquent taxes and fees
1023 personal debts of the persons required to pay the taxes or fees imposed, revoking city
1024 licenses for failure to pay any city taxes or fees, and providing for the assignment or
1025 transfer of tax executions.

SECTION 6.19.

1026

1027

General obligation bonds.

1028

The mayor and city council shall have the power to issue bonds for the purpose of raising

1029

revenue to carry out any project, program, or venture authorized under this charter or the

1030

laws of this state. Such bonding authority shall be exercised in accordance with the laws

1031

governing bond issuance by municipalities in effect at the time said issue is undertaken.

SECTION 6.20.

1032

1033

Revenue bonds.

1034

Revenue bonds may be issued by the mayor and city council as state law now or hereafter

1035

provides. Such bonds are to be paid out of any revenue produced by the project, program,

1036

or venture for which they were issued.

SECTION 6.21.

1037

1038

Short-term loans.

1039

The city may obtain short-term loans and must repay such loans not later than December 31

1040

of each year, unless otherwise provided by law.

SECTION 6.22.

1041

1042

Fiscal year.

1043

The mayor and city council shall set the fiscal year by ordinance. This fiscal year shall

1044

constitute the budget year and the year for financial accounting and reporting of each and

1045

every office, department, agency, and activity of the city government.

SECTION 6.23.

1046

1047

Preparation of budgets.

1048

The mayor and city council shall provide an ordinance on the procedures and requirements

1049

for the preparation and execution of an annual operating budget, a capital improvement

1050

program, and a capital budget, including requirements as to the scope, content, and form

1051

of such budgets and programs.

1052 **SECTION 6.24.**

1053 Submission of operating budget to city council.

1054 On or before a date fixed by the mayor and city council but not later than 45 days prior to
 1055 the beginning of each fiscal year, the city manager shall submit to the mayor and city
 1056 council a proposed operating budget for the ensuing fiscal year. The budget shall be
 1057 accompanied by a message from the city manager containing a statement of the general
 1058 fiscal policies of the city, the important features of the budget, explanations of major
 1059 changes recommended for the next fiscal year, a general summary of the budget, and such
 1060 other comments and information as he or she may deem pertinent. The operating budget
 1061 and the capital improvements budget provided for in this charter, the budget message, and
 1062 all supporting documents shall be filed in the office of the city clerk and shall be open to
 1063 public inspection.

1064 **SECTION 6.25.**

1065 Action by mayor and city council on budget.

1066 (a) The mayor and city council may amend the operating budget proposed by the city
 1067 manager, except that the budget as finally amended and adopted must provide for all
 1068 expenditures required by state law or by other provisions of this charter and for all debt
 1069 service requirements for the ensuing fiscal year. The total appropriations from any fund
 1070 shall not exceed the estimated fund balance, reserves, and revenues.

1071 (b) The mayor and city council shall adopt by ordinance the final operating budget for the
 1072 ensuing fiscal year not later than the thirtieth day of June each year. If the mayor and city
 1073 council fail to adopt the budget by such date, the amounts appropriated for operation for
 1074 the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-
 1075 to-month basis, with all items prorated accordingly until such time as the mayor and city
 1076 council adopt a budget for the ensuing fiscal year. Adoption of the budget shall take the
 1077 form of an appropriations ordinance setting out the estimated revenues in detail by sources
 1078 and making appropriations according to fund and by organizational unit, purpose, or
 1079 activity as set out in the budget preparation ordinance adopted pursuant to Section 6.23 of
 1080 this charter.

1081 (c) The amount set out in the adopted operating budget for each organization unit shall
 1082 constitute the annual appropriation for such, and no expenditure shall be made or
 1083 encumbrance created in excess of the otherwise unencumbered balance of the
 1084 appropriations or allotments thereof to which it is chargeable.

SECTION 6.26.

Tax levies.

1087 Subject to state law, following adoption of the operating budget, the mayor and city council
1088 shall levy by ordinance such taxes as are necessary. The taxes and tax rates set by such
1089 ordinance shall be such that reasonable estimates of revenues from such levy shall at least
1090 be sufficient, together with other anticipated revenues, fund balances, and applicable
1091 reserves, to equal the total amount appropriated for each of the several funds set forth in
1092 the annual operating budget for defraying the expense of the general government of the
1093 city.

SECTION 6.27.

Changes in appropriations.

1096 The mayor and city council by ordinance may make changes in the appropriations
1097 contained in the current operating budget at any regular meeting or special or emergency
1098 meeting called for such purpose, but any additional appropriations may be made only from
1099 an unexpended appropriation with the limits of the total approved budget.

SECTION 6.28.

Capital improvements budget.

1102 (a) On or before the date fixed by the mayor and city council but not later than 45 days
1103 prior to the beginning of each fiscal year, the city manager shall submit to the mayor and
1104 city council a proposed capital improvements budget with his or her recommendations as
1105 to the means of financing the improvements proposed for the ensuing fiscal year. The
1106 mayor and city council shall have power to accept, with or without amendments, or reject
1107 the proposed program and proposed means of financing. The mayor and city council shall
1108 not authorize an expenditure for the construction of any building, structure, work, or
1109 improvement, unless the appropriations for such project are included in the capital
1110 improvements budget, except to meet a public emergency as provided in Section 2.24
1111 of this charter.

1112 (b) The mayor and city council shall adopt by ordinance the final capital improvements
1113 budget for the ensuing fiscal year not later than the thirtieth day of June of each year. No
1114 appropriation provided for in a prior capital improvements budget shall lapse until the
1115 purpose for which the appropriation was made shall have been accomplished or abandoned;
1116 provided, however, that the city manager may submit amendments to the capital

1117 improvements budget at any time during the fiscal year, accompanied by his or her
 1118 recommendations. Any such amendments to the capital improvements budget shall
 1119 become effective only upon adoption by ordinance.

1120 **SECTION 6.29.**

1121 Independent audit.

1122 There shall be an annual independent audit of all city accounts, funds, and financial
 1123 transactions by a certified public accountant selected by the mayor and city council. The
 1124 audit shall be conducted according to generally accepted accounting principles. Any audit
 1125 of any funds by the state or federal government may be accepted as satisfying the
 1126 requirements of this charter. Copies of all audit reports shall be available at printing costs
 1127 to the public.

1128 **SECTION 6.30.**

1129 Contracting procedures.

1130 No contract with the city shall be binding on the city unless:

- 1131 (1) It is in writing;
- 1132 (2) It is drawn by or submitted and reviewed by the city attorney and, as a matter of
 1133 course, is signed by him or her to indicate such drafting or review; and
- 1134 (3) It is made or authorized by the mayor and city council and such approval is entered
 1135 in the city council minutes of proceedings pursuant to Section 2.20 of this charter.

1136 **SECTION 6.31.**

1137 Centralized purchasing.

1138 The mayor and city council may prescribe by ordinance procedures for a system of
 1139 centralized purchasing for the city.

1140 **SECTION 6.32.**

1141 Sale of city property.

1142 (a) Subject to Georgia law, and as may be amended from time to time, the mayor and city
 1143 council may sell and convey any real or personal property owned or held by the city for
 1144 governmental or other purposes as now or hereafter provided by law.

1145 (b) Subject to Georgia law, and as may be amended from time to time, the mayor and city
 1146 council may quitclaim any rights it may have in property not needed for public purposes
 1147 upon request by the city manager and adoption of a resolution, both finding that the
 1148 property is not needed for public or other purposes and that the interest of the city has no
 1149 readily ascertainable monetary value.

1150 **ARTICLE VII**

1151 **GENERAL PROVISIONS**

1152 **SECTION 7.10.**

1153 Bonds for officials.

1154 The officers and employees of the city, both elected and appointed, shall execute such
 1155 surety or fidelity bonds in such amounts and upon such terms and conditions as the mayor
 1156 and city council may from time to time require by ordinance or as may be provided by law.

1157 **SECTION 7.11.**

1158 Prior ordinances.

1159 All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent
 1160 with this charter are declared valid and of full effect and force until amended or repealed
 1161 by the mayor and city council.

1162 **SECTION 7.12.**

1163 Existing personnel and officers.

1164 Except as specifically provided otherwise by this charter, all personnel and officers of the
 1165 city and their rights, privileges, and powers shall continue beyond the time this charter
 1166 takes effect for a period of 30 days before or during which the existing mayor and city
 1167 council shall pass a transition ordinance detailing the changes in personnel and appointed
 1168 officers required or desired and arranging such titles, rights, privileges, and powers as may
 1169 be required or desired to allow a reasonable transition.

1170 **SECTION 7.13.**

1171 Pending matters.

1172 Except as specifically provided otherwise by this charter, all rights, claims, actions, orders,
 1173 contracts, and legal or administrative proceedings shall continue and any such ongoing

1174 work or cases shall be completed by such city agencies, personnel, or offices as may be
1175 provided by the mayor and city council.

1176 **SECTION 7.14.**

1177 Construction.

1178 (a) Section captions in this charter are informative only and shall not be considered as a
1179 part thereof.

1180 (b) The word 'shall' is mandatory and the word 'may' is permissive.

1181 (c) The singular shall include the plural, the masculine shall include the feminine, and vice
1182 versa.

1183 **SECTION 7.15.**

1184 Severability.

1185 In the event any article, section, subsection, paragraph, sentence, or part of this charter shall
1186 be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not
1187 affect nor impair other parts of this charter unless it clearly appears that such other parts
1188 are wholly and necessarily dependent upon the part held to be invalid or unconstitutional,
1189 it being the legislative intent and in enacting that each article, section, subsection,
1190 paragraph, sentence, or part thereof be enacted separately and independent of each other."

1191 **SECTION 2.**

1192 All laws and parts of laws in conflict with this Act are repealed.