

House Bill 789 (AS PASSED HOUSE AND SENATE)

By: Representative Stinson of the 150<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act to create a new charter for the City of Oglethorpe, approved March 11,  
2 1975 (Ga. L. 1975, p. 2630), as amended, so as to revise provisions relating to certain  
3 hearings of the governing authority; to revise provisions related to the powers of the mayor  
4 pro tem; to revise provisions related to filling vacancies on the mayor and council; to update  
5 provisions related to the municipal court; to provide for related matters; to provide for an  
6 effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 An Act providing a new charter for the City of Oglethorpe, approved March 11, 1975 (Ga.  
10 L. 1975, p. 2630), as amended, is amended by adding a new section to read as follows:

11 "SECTION 1.04.5.

12 Public hearings for zoning decisions shall be held consistent with the 'Zoning Procedures  
13 Law,' Chapter 66 of Title 36 of the O.C.G.A."

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**SECTION 2.**

Said Act is further amended by revising Section 2.04 and Section 2.05 as follows:

**"SECTION 2.04.****Mayor pro tem.**

The council, at the first regular meeting after the newly elected councilmen have taken office following each election, shall elect from its membership a mayor pro tem who shall serve for a term of one year. In the event that no decision is reached at such first regular meeting, the council shall elect the mayor pro tem within ten days following such meeting; otherwise the councilmember who received the highest number of votes when he was last elected shall become the mayor pro tem. The mayor pro tem shall perform the duties of the mayor during the mayor's absence or inability to act, and shall fill any unexpired term in the office of the mayor, in which case a new mayor pro tem shall be elected by majority vote of the council. Except in the case where the mayor pro tem is filling the office of the mayor due to the prior mayor's inability to act, the mayor pro tem shall not take any actions on behalf of the city without the consent of the mayor.

**SECTION 2.05.****Vacancy in office of mayor of councilmember.**

A vacancy shall exist if the mayor or a councilman:

- (1) Resigns, dies, or moves his or her residence from the city;
- (2) Is absent from four consecutive regular meetings of the governing authority, except if granted a leave of absence by the council, or has been continuously disabled for a period of six months so as to prevent him or her from discharging the duties of his or her office; or

(3) If he or she is adjudged an incompetent or is convicted of malfeasance or misfeasance in office, or felony, a violation of this Act or a violation of the election laws of the State. The mayor and council shall appoint a qualified person to fill such a vacancy for the remainder of the unexpired term. If a tie vote by the council to fill a vacancy is unbroken for fifteen days, the mayor or mayor pro-tem in case of a vacancy in the office of mayor, shall appoint a qualified person to fill the vacancy. At no time shall there be more than two members so appointed holding office, and if a vacancy occurs with two members so appointed on the council, a special election shall be held on the eighth Tuesday following occurrence of the vacancy, at which election a mayor or councilman, as the case may be, shall be elected to serve the remainder of the unexpired term of the vacant office, provided that no such election shall be held if a regular annual election will occur within six months."

### **SECTION 3.**

Said Act is further amended by repealing and reserving Section 3.04, relating to the Mayor's or recorder's court.

### **SECTION 4.**

Said Act is further amended by adding a new article to read as follows:

## **"ARTICLE III-A MUNICIPAL COURT**

### **SECTION 3A.01.**

Creation; name.

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

## SECTION 3A.02.

Chief judge; other judges.

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

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years and shall possess all qualifications required by law. All judges shall be appointed by the city council and shall serve until a successor is appointed and qualified.

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

(d) Judges shall serve a term and may be removed as provided by general law.

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

## SECTION 3A.03.

Convening.

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

## SECTION 3A.04.

Jurisdiction; powers.

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

(b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed ten days in jail and a fine as authorized by law.

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

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

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

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

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

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

#### SECTION 3A.05.

##### Rules for court.

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

#### SECTION 3A.06.

##### Petitions for review.

The right to seek petitions for review from the decision and judgment of the municipal court shall exist in all criminal cases and ordinance violation cases, and such petitions shall be made to the Superior Court of Macon County under the laws of the State of Georgia regulating appeals to the superior courts."

127 **SECTION 5.**

128 This Act shall become effective on July 1, 2025.

129 **SECTION 6.**

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