

ORDINANCE NO. 437

AN ORDINANCE PROVIDING FOR THE SPECIAL ELECTION FOR THE CITY OF FLOWERY BRANCH, GEORGIA FOR 2010; ESTABLISH AND SET THE DATE AND TIME OF THE SPECIAL ELECTION FOR THE CITY OF FLOWERY BRANCH, GEORGIA FOR 2010 FOR THE MAYORS POSITION AND POST 4; TO PROVIDE A QUALIFYING PERIOD FOR SAID POSITIONS; TO PROVIDE FOR THE QUALIFYING FEES FOR SAID POSITIONS; TO PROVIDE FOR A QUALIFYING PROCEDURE; TO APPOINT ELECTION OFFICIALS; TO PROVIDE FOR THE OPENING AND CLOSING OF REGISTRATION FOR SAID SPECIAL ELECTIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, the City Council of the City of Flowery Branch, Georgia is authorized by Article IX, Section II, Paragraph II of the Constitution of the State of Georgia of 1983, and pursuant to O.C.G.A. Section 21-3-1 et seq., to enact ordinances for the holding of elections and special elections of public officials of the municipality;

WHEREAS, the Mayor has resigned her seat due to moving out of the City limits prior to her December 31, 2013 term ending; and councilmember James Miller has resigned his post 4 seat to qualify for the Mayor's seat;

WHEREAS, the City of Flowery Branch, Georgia desires to conduct a special election to fill the Mayor position, and the position of post 4, openly and fairly for all duly qualified and registered electors of the City of Flowery Branch, Georgia;

THE CITY COUNCIL OF THE CITY OF FLOWERY BRANCH HEREBY ORDAINS, by the authority of Article IX, Section II, Paragraph III of the Georgia Constitution of 1983, as amended; and the City Charter, as amended, as follows:

Section 1. Special Election.

The City of Flowery Branch, Georgia will conduct a special election on Tuesday, November 2, 2010 from 7:00 a.m. to 7:00 p.m. with the place of said election being in the Flowery Branch City Hall located at 5517 Main Street, Flowery Branch, Georgia for the position as indicated in Section 2 of this Ordinance.

Section 2. Position Open for Election and Terms Thereof.

The special election to be held on the date established by Section 1 of this Ordinance is for the purpose of filling the following positions:

- (a) The position of Mayor which will be elected at large for the completion of the current term which will expire December 31, 2013.
- (b) The position of Council Member Post 4, which will be elected at large for the completion of the current term which will expire December 31, 2013.

Section 3. Qualifying Period.

The qualifying period for the election set by Section 1 of this Ordinance to qualify for the positions described in Section 2 of this Ordinance shall be open on Monday September 27, 2010 and will continue day-to-day through Wednesday September 29, 2010. The hours of qualifying each day shall be during the regular business hours of the City of Flowery Branch, Georgia. The place of qualifying shall be the office of the City Clerk of the City of Flowery Branch, Georgia, being the office of the Election Superintendent, and being located at Flowery Branch City Hall, 5517 Main Street, Flowery Branch, Georgia.

Section 4. Qualifying Fee.

(a) The qualifying fee for the Mayor position, which is open for election as provided by Section 2 of the Ordinance, shall be \$180.00. The qualifying fee for the Council Member Post 4 position, which is open for election as provided by Section 2 of the Ordinance, shall be \$144.00. Such fee shall be paid to the Election Superintendent at the time a candidate files the candidate's notice of candidacy.

(b) A pauper's affidavit may be filed in lieu of paying the qualifying fee otherwise required by Section 4(a) of this Ordinance. A candidate filing a pauper's affidavit instead of paying a qualifying fee shall under oath affirm the candidate's poverty and the candidate's resulting inability to pay the qualifying fee otherwise required. The form of the affidavit shall be as prescribed by the Georgia Secretary of State and shall include a financial statement which lists the total income, assets, liabilities and other relevant financial information of the candidate. The affidavit shall contain an oath that such candidate has neither the assets nor the income to pay the qualifying fee otherwise required. The following warning shall be printed on the affidavit form as prepared by the Georgia Secretary of State, to wit: "WARNING: Any person knowingly making any false statement on this affidavit commits the offense of false swearing and shall be guilty of a felony." The Election Superintendent shall place on the ballot the name of any candidate who subscribes and swears to an oath that such candidate has neither the assets nor the income to pay the qualifying fee otherwise required.

Section 5. Qualifying Affidavit and Financial Disclosure Statement.

(a) Each candidate qualifying for the position described in Section 2 of this Ordinance shall accompany the candidate's notice with an affidavit stating:

- (1) The candidate's residence, with street and number, if any, and the candidate's post office address;
- (2) The candidate's profession, business or occupation, if any;
- (3) The name of post or office sought for election and precinct, if applicable;
- (4) That the candidate is an elector of the municipality of the candidate's residence and is eligible to vote in the election in which the candidate is running for office;
- (5) The name of the position that the candidate is seeking;
- (6) That the candidate is eligible to hold such position;

- (7) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office or a felony involving moral turpitude under the laws of this state or any other state or of the United States, of that the candidate's civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude; and
- (8) That the candidate will not knowingly violate any provisions of the "Georgia Municipal Election Code" or any rules and regulations adopted under the "Georgia Municipal Election Code."

(b) Each person qualifying as a candidate will file a financial disclosure statement prescribed by the laws of the State of Georgia in the form as prescribed therein, no later than the fifteenth (15th) day following the last day of qualifying with the Election Superintendent of the City of Flowery Branch, Georgia.

Section 6. Write-In Candidates.

(a) In this special election, no person elected on a write-in vote shall be eligible to hold office unless notice of the person's intention of candidacy was given twenty (20) or more days prior to the election by the person to be a write-in candidate or by some other person or group of persons qualified to vote in the election, to the Mayor or the Election Superintendent and by publication in the official newspaper of the City of Flowery Branch, Georgia, said publication currently being "The Times."

(b) In addition to the requirements contained in Section 6(a) of this Ordinance, the person or persons giving notice of intention of candidacy for a write-in candidate shall also file with the Mayor or the Election Superintendent, a copy of the notice as published with an affidavit stating that the notice has been published, with the name of the newspaper and the date of publication, not later than the fifth (5th) day after the deadline for filing and publishing of such notice. The affidavit may be made by the person giving notice or intention of candidacy or by the publisher of the newspaper in which the notice was published or by an employee of the newspaper designated by the publisher.

Section 7. Election Appointments.

(a) The following persons are hereby appointed to act as election officials for the November 2, 2010 Special Election:

Election Superintendent	Melissa McCain
Chief Registrar	Charlotte Sosebee-Hunter
Absentee Ballot Clerks	Melissa McCain, Lou Camiscioni & Martha Stephens
Poll Manager	To be announced
Poll Worker	To be announced
Poll Worker	To be announced

(b) The office of the City Clerk of the City of Flowery Branch, Georgia is hereby declared to be the office of the Election Superintendent for the purpose of candidates qualifying for the offices open for election as provided by Section 3 of this Ordinance, and also as the office of the Absentee Ballot Clerk.

Section 8. Last Day for Voter Registration.

The last day that an elector/voter may register to vote in the 2010 Special Election shall be Monday October 4, 2010, by 5:00 p.m. at the Hall County Board of Elections and Registration located at 2285 Browns Bridge Road, Gainesville, Georgia, unless said date is a Georgia legal holiday, and then the last day for voter/elector registration shall be the next day by 5:00 p.m.

Section 9. Repealer.

All Ordinances and parts of Ordinances in conflict herewith are hereby repealed to the extent of conflict.

Section 10. Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Dated this 26th day of August, 2010.

ATTEST:

CITY OF FLOWERY BRANCH

Melissa McCain, City Clerk

James Miller – Interim Mayor

E. Ronald Bennett, City Attorney
Approved as to Form