

Proposed Charter Changes

Charter Changes

Change 1: Sec. 3.02. - Qualifications.

“...No person may qualify as a candidate for commissioner who holds another public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with the office of commissioner without first resigning from the other office.”

Under F.S. 112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys, the term “public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

Does this mean that a City Commissioner cannot be a member of the Lake Conway Navigation Board? If so, then we may want to look at a change to allow this by stating, something like “Once a candidate for commissioner is elected, the commissioners may be appointed to another agency’s advisory board but in no case shall a candidate hold two elected offices concurrently.

Change 2: Sec. 3.07. - Vacancies; forfeiture of office; filling of vacancies.

(B) *Forfeiture of office:* A commissioner shall forfeit the office if the commissioner:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law.

Sec. 3.02. - Qualifications.

Commissioners and candidates for commissioner shall have resided in the city at least one (1) year immediately prior to the date on which they qualify to run for the office of commissioner, and shall have the qualifications of electors therein. No person may qualify as a candidate for commissioner who holds another public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with the office of commissioner without first resigning from the other office.

Under Sec. 3.01. - Creation, powers and composition of city council, it states the city council shall consist of seven (7) commissioners; one residing in each of seven (7) election districts, elected at large by the qualified voters of the city. **Is this a qualification? If so, then not to be ambiguous, maybe consider changing Section 3.07 (B) to read:**

(B) *Forfeiture of office:* A commissioner shall forfeit the office if the commissioner:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law, which includes moving out of the district for which the Commissioner was elected.

OR

Adding: “(B)(4) Moving out of the district for which the Commissioner was elected prior to the end of the term.”

Change 3: Sec. 3.07. - Vacancies; forfeiture of office; filling of vacancies.

Currently: A vacancy on the council shall be filled by the mayor appointing a candidate from the district where the vacancy has occurred. The appointee shall be confirmed by a majority vote of the council.

Although the Council has the power to not ratify the appointment, this allows the Mayor to appoint solely on the Mayor’s discretion, and depending on how many seats are to be filled, the Mayor could possibly “stack the deck”. So not to continually change the charter if there is a change in the process of filling the vacancy, Maybe recommend the language for Section 3.07 (C) to read:

Council vacancies shall be filled by a majority of the remaining members of Council. The appointees term will begin immediately and shall continue through the unexpired term of the predecessor.

Council can then adopt a procedure similar to the following (excerpt from Hood River Oregon Rules of Council and if accepted can be changed according to Florida laws):

Filling Vacancies: Any vacancy occurring on the City Council will be filled as follows.

- a. When a vacancy occurs, the City Manager shall publish a Notice of Vacancy inviting applications to be filed by interested, qualified candidates. The notice shall state that any information provided is subject to the Oregon Public Record Laws. Candidates must include in their filing a resume describing their background and a statement of the reason(s) why they desire to be considered for appointment. The City Recorder will verify the qualifications of the candidates.
- b. The Council will establish a date when all applications from eligible persons must be filed with the City Recorder. The filing of a written application is considered as placing that person in nomination.
- c. After the date for filing has expired, the Council may direct the City Manager to set a time and date for interviews with all candidates. The Council may elect to reopen the vacancy procedure, at its discretion, prior to selection. If the procedure is reopened, a second notice does not need to be published.
- d. Prior to the date of the interviews, the City Recorder will report back to the City Manager and Council whether the candidates are eligible to serve.
- e. If the Council is satisfied that it has concluded the process of reviewing potential nominees and the qualifications of the nominees, the presiding officer shall declare the nominations closed and call for a written nominating ballot.

- f. The Mayor and each Councilor will vote for one person among the nominees on the nominating ballot. Those persons who receive the two largest number of votes are designated as the nominees for the final written electing ballot, provided, however, that any nominee receiving five (5) votes is considered elected to fill the vacancy.
- g. If only one (1) person is placed in nomination, a motion to direct the City Recorder to record a unanimous ballot for that person is in order.
- h. The City Recorder and City Attorney act as tellers on the balloting and declare the results of each ballot. The tellers may declare the vote of each Councilor upon request by the majority of Councilors voting.
- i. A majority vote of the remaining members of the Council for a candidate for a Council vacancy is necessary to constitute a choice on the final electing ballot.
- j. In the event that no nominee for any vacancy receives the necessary number of votes, additional ballots must be taken until one of the nominees receives the required number of votes.

During the vacancy filling process, the Council will fill as many vacant positions as possible according to the procedure described above.

Change 4: Sec. 3.07. - Vacancies; forfeiture of office; filling of vacancies.

Discussion was held on what constitutes a forfeiture of office and how that may relate to a prohibition under Section 3.10 Prohibitions and whether the Mayor was subject to the same rules as the Council. Suggest adding the language in (3) and (5) below.

(B) *Forfeiture of office:* A commissioner shall forfeit the office if the commissioner:

- (1) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law.
- (2) Violates any standard of conduct or code of ethics established by law or [commits] a misdemeanor of the second degree or a felony of any degree.

(3) Violates any express prohibition of this Charter

- (4) Misses four (4) consecutive, regularly scheduled council meetings, without being excused by the council.

(5) In addition to any of the grounds of forfeiture spelled out in the first paragraph of this subsection, all city council members shall be subject to a code of conduct that shall be adopted by the city council, as amended from time to time, which shall establish rules of conduct and the penalties established for the violation of such code of conduct. Such penalties may include, but not be limited to, censure, reprimand, removal of committee appointments, removal of the city council member's budget, or suspension. Violation of the code of conduct shall also constitute violation of this charter.

Change 4: ARTICLE IV. - EXECUTIVE AND ADMINISTRATION

Discussion under this article were whether the Mayor should fall under the same prohibitions as the other elected officials and to remove the sections that apply to the Mayor and move them to the Legislative Article.

Article III could have a title change to Legislative and Executive and the sections of the Mayor and Vice-Mayor could fall under Sections 3.20 to 3.25. If it is decided not to move the Executive Sections and leave them in Section 4, then new language under Article IV, could be added to either Section 4.02 or 4.05 that states:

The Mayor shall be held accountable for the same prohibitions as outlined in Section 3.10 if the Charter.

Most research shows the Mayor falls under the same Article as Council and the City Manager is a stand-alone Article.

Change 5: Absences under Sec. 3.07. - Vacancies; forfeiture of office; filling of vacancies.

Council discussed how many absences are necessary for forfeiture of office. Research is varied. A few Examples:

- Belle Isle: Misses four (4) consecutive, regularly scheduled council meetings, without being excused by the council.
- DeBary: A member of the Council shall forfeit his/her office, if the member misses three regular meetings of the Council within any twelve-month period regardless of the reason for absence. Absences from special meetings and workshops of the Council are discouraged, but do not count for purposes of forfeiting a Council member's office
- Edgewood: Misses two (2) consecutive or four (4) regularly scheduled meetings in a calendar year, without being excused by the council.
- Windermere: Misses three (3) consecutive, regularly scheduled council meetings, without being excused by the council.
- Winter Park: None Stated
- Maitland: fails to attend three consecutive regular meetings of the council without being excused by the council.
- Apopka: by absence from four consecutive regular city council meetings without being excused by the city council prior to the fourth consecutive absence.
- Kissimmee: None
- St. Cloud: fails to attend three (3) consecutive regular meetings of the council without being excused by the council.
- Altamonte Springs: Is absent from four (4) consecutive regular meetings of the commission, unless such absence is excused by the commission by resolution setting forth the fact of such excuse duly entered upon the commission's minutes.
- Casselberry: Absence from three consecutive regular meetings by any member of the City Commission shall operate to vacate the seat of said member, unless such absence is excused by the City Commission and such absence recorded upon the minutes of said meeting setting forth the conditions, if any, of such excuse.

- Longwood: fails to attend three (3) consecutive regular meetings of the City Commission without being duly excused by the Commission.

Change 6: Sec. 4.09. - City Manager: Powers and duties.

Add the language in bold: (K) Establish personnel policies governing appointment, retention and promotion of city employees, which policies shall include a grievance procedure, **subject to approval by Council and adopted by resolution.**

Change 7: Sec. 4.13. - Administrative code.

Add the language in bold: The city manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council, **subject to approval by Council and adopted by resolution.**

Change 8: Sec. 4.10. - Supervision of departments and Sec. 4.11. - City Clerk.

To move the City Clerk under the City Manager, suggest the following change to Section 4.11: **There shall be a city clerk designated and under the supervision of the City Manager.** The city clerk shall give notice of council meetings to its members and the public, keep a journal of its proceedings which shall be a public record, and perform such other duties as are assigned by this charter or the city manager.