



HISTORIC TOWN OF EATONVILLE, FLORIDA

CHARTER REVIEW AGENDA

Tuesday, June 13, 2023 at 6:00 PM

Town Hall - 307 E Kennedy Blvd

Please note that the HTML versions of the agenda and agenda packet may not reflect changes or amendments made to the agenda.

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION AND PLEDGE OF ALLEGIANCE
- IV. CITIZEN PARTICIPATION (Three minutes strictly enforced)
- V. EXPLANATION OF CHARTER REVIEW
- VI. COUNCIL DISCUSSION
 - [1.](#) Charter Review Memo (Town Attorney)
- VII. COMMENTS
 - 2. Staff Comments
- VIII. ADJOURNMENT

The Town of Eatonville is subject to the Public Records Law. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

****PUBLIC NOTICE****

This is a Public Meeting, and the public is invited to attend. This Agenda is subject to change. Please be advised that one (1) or more Members of any of the Town's Advisory Boards/Committees may attend this Meeting and may participate in discussions. Any person who desires to appeal any decision made at this meeting will need a verbatim record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based – per Section 286.0105 Florida Statutes. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Town of Eatonville at (407) 623-8910 "at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority" - per Section 286.26



HISTORIC TOWN OF EATONVILLE, FLORIDA

CHARTER REVIEW

JUNE 13, 2023 AT 6:00 PM

Cover Sheet

****NOTE**** Please do not change the formatting of this document (font style, size, paragraph spacing etc.)

ITEM TITLE: First Charter Review Meeting

COUNCIL ACTION:

COUNCIL DISCUSSION	YES	Department: LEGISLATIVE
CONSENT AGENDA		Exhibits: <ul style="list-style-type: none"> Charter Review Memo (Town Attorney)
NEW BUSINESS		
ADMINISTRATIVE		

REQUEST: The request is for the Town Council to review for document changes the Town Charter as part of a rigorous Charter Review under the guidance of the Town Attorney.

SUMMARY: We the people of the historic Town of Eatonville, Florida, the Oldest Incorporated Black Municipality in the United States, under the constitution and laws of the State of Florida, in order to provide the benefits of local government responsive to the will and values of our citizens, do hereby adopt this Charter to define the powers and structure of our government. By this action we enable our government to provide services and meet the needs of the people efficiently; allow fair and equitable participation of all residents in the affairs of the Town; provide for transparency, accountability, and ethics in governance; foster fiscal responsibility; promote prosperity and advance the quality of life; and, preserve our unique history for generations to come.

The Town shall have all powers possible for a Municipality to have under the constitution and Laws of the state of Florida as fully and completely as though they were specifically enumerated in this Charter. The Town of Eatonville is a Municipal Corporation with a Mayor-Council form of Government.

The Town Charter was last adopted in 2016 and the Town Council seeks a Charter Review. According to the Charter, Sec. 6.02. there shall be a periodic review of this Charter by a Charter review advisory committee appointed by the Town Council in 2024 and every eight (8) years thereafter. The Town of Eatonville is within the timeframe of a Charter Review.

RECOMMENDATION: Recommendation is for Town Council to review for document changes the Town Charter.

FISCAL & EFFICIENCY DATA: N/A

2023 CHARTER REVIEW

TOWN OF EATONVILLE

Section 1.01 – Powers of the Town.

The Town shall have all powers possible for a Municipality to have under the constitution and Laws of the state of Florida as fully and completely as though they were specifically enumerated in this Charter.

AREAS FOR DISCUSSION-None.

Section 1.02 - Construction.

The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

AREAS FOR DISCUSSION-None.

Section 1.03 – Intergovernmental Relations.

The Town may participate by contract or otherwise with any governmental entity of this State or any other State or States or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

AREAS FOR DISCUSSION-None.

Section 1.04 – Corporate Boundaries.

The corporate boundaries of the Town of Eatonville remain as they exist on the date this amended Charter takes effect, provided that the Town shall have the power to change its boundaries in the manner prescribed by law. A dated description of the boundaries is posted on the Town's website, is on file at the Town Hall, and is available to the public.

AREAS FOR DISCUSSION-None.

Section 1.05 – Form of government.

The Town of Eatonville is a Municipal Corporation with a **Mayor-Council** form of Government.

AREAS FOR DISCUSSION:

Does the Town wish to consider changing to a Council-Manager form of government? NOTE: If yes, this decision will require additional amendments to other sections of the Charter which are not yet drafted and have yet to be considered.

REASONS FOR DISCUSSION:

Council pleasure.

HOW IT WOULD READ WITH ALL CHANGES:

The Town of Eatonville is a Municipal Corporation with a Council-Manager form of Government.

Section 2.01 – Office created: Purpose; management; functions.

There is hereby created the Office of the Town Council which shall be a department of the Legislative branch. All laws relating generally to the Administration of Government shall so far as applicable, govern the Office of the Town Council. The Town Council as a collective body shall be the head of the department and shall assign the daily administrative duties and responsibilities to the Clerk. Through this designation, the Town Clerk shall be responsible for all matters of

staff support for the Council. This office shall include: A Legislative Services Division, an Administrative Services Division, and a Public Information Division.

Office to be under the Town Council. The Department of the Town Council shall be under the daily management of the Town Clerk, who shall be appointed by the Council without regard to political affiliation and who shall serve at the pleasure of the Town Council and who shall not be in the classified service of the Town and who shall not be subject to the civil service laws affecting the Town. The Town Clerk shall be responsible for the divisions and functions of the department and shall exercise direct control and supervision and/or support for all department staff. The Town Council may appoint an Administrative Assistant to the Town Clerk who shall serve at the pleasure of the Town Clerk and who may be assigned by the Town Clerk to assist Council members, individually. The Administrative Assistant to the Town Clerk shall not be in the classified service of the Town and shall not be subject to the civil service laws affecting the Town.

The rules of the Town Council are adopted by Ordinance pursuant to the requirements of F.S. ch. 166. These rules and their adopting Ordinances are declared to be general and permanent Ordinances of the Town and they shall continue in force according to their tenor notwithstanding that they are not codified in the Ordinance Code.

Functions of Office. The Town Clerk:

- a. Keep the records of the Council and be the official signatory and perform all duties which are assigned by the Charter or by law.
- b. Maintain the offices and conference rooms of the Town Council.
- c. Provide clerical, secretarial, or administrative assistance to Council committees and advisory boards that function as an extension of the Town Council, either directly or through delegation.
- d. Provide, maintain, and update the office legislative files, committee calendars, and other documents necessary to the conduct of legislative business, and be responsible for all official records of the Legislative branch of Government.

AREAS FOR DISCUSSION:

Relevant portions of this section should be moved and combined with Section 3.02 addressing the appointment, removal, duties, and functions of the Town Clerk. Recommend eliminating the "Office of Town Council." The entire Article 2 would be renamed "Town Council."

REASONS FOR DISCUSSION:

Redundancy, confusion.

HOW IT WOULD READ WITH ALL CHANGES:

Section 3.02-Office of Town Clerk.

The Town Council shall appoint an officer of the town who shall have the title of Town Clerk. The Town Clerk shall not be in the classified service of the Town and shall not be subject to the civil service laws affecting the Town. The Town Clerk shall be appointed without regard to political affiliation and shall serve at the pleasure of the Town Council. The Town Clerk shall be appointed and may be removed by a simple majority vote of the Council.

The Town Clerk shall:

- a. Keep the records of the Council and perform all duties which are assigned by the Charter or by law.
- b. Maintain the offices and conference rooms of the Town Council.
- c. Provide clerical, secretarial, or administrative assistance to Council committees and advisory boards that function as an extension of the Town Council, either directly or through delegation.
- d. Provide, maintain, and update the office legislative files, committee calendars, and other documents necessary to the conduct of legislative business, and be responsible for all official records of the Legislative branch of Government.
- e. Be the custodian of all Town Council records.
- f. Give notice of Council meetings to its members and the public, keep minutes of its proceedings, and perform such other duties as are assigned by this Charter or the Town Council.

The Town Clerk shall be responsible for all matters of staff support for the Council.

The Town Clerk shall be responsible for the divisions and functions of the office of the Town Clerk and shall exercise direct control and supervision and/or support for all employees and staff of the office of the Town Clerk. The Town Council may appoint an Administrative Assistant to the Town Clerk who shall serve at the pleasure of the Town Clerk and who may be assigned by the Town Clerk to assist Council members individually. The Administrative Assistant to the Town Clerk shall not be in the classified service of the Town and shall not be subject to the civil service laws affecting the Town.

Section 2.02 – Eligibility, terms, and composition.

(a) *Eligibility.* Only registered voters of Orange County who have resided within the Town of Eatonville Town limits for twelve consecutive months prior to the date of qualifying shall be eligible to hold the office of Mayor or Council Member.

(b) *Terms.* The term of office of the Mayor and Council Members shall be four (4) years elected in accordance with Article V. The terms of all such persons shall commence at the first regularly scheduled Council meeting following the certification of election results by the Canvassing Board. All such elected officials shall hold office until their Successors have been elected and qualified or until their tenure of office has otherwise been terminated in accordance with law.

(c) *Composition.* There shall be a Town Council composed of five (5) members, one of whom will qualify for and be designated as Mayor, elected by the voters of the Town, at large, in accordance with the provisions of Article V.

AREAS FOR DISCUSSION-None.

Section 2.03 – Mayor; general duties.

The Mayor shall be the Chief Executive Officer of the Town and shall be responsible to the electorate for the Administration of all Town affairs placed in the Mayor's charge by or under this Charter. The Mayor shall:

(a) Appoint and suspend or remove all Town employees and appointive Administrative Officers provided for by or under this Charter. Department heads shall be appointed by the Mayor within one-hundred-twenty (120) days of any vacancy and confirmed by the Town Council. The Mayor may authorize any administrative officer who is subject to the Mayor's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;

(b) Direct and supervise the administration of all departments, offices, and agencies of the Town, except as otherwise provided by this Charter or law;

(c) Chair and be a voting member of the Town Council;

(d) See that all laws, provisions of this Charter and acts of the Town Council, subject to enforcement by the Mayor or by officers subject to the direction and supervision of the Mayor, are faithfully executed;

(e) Prepare, or have prepared, and submit the annual budget, budget message, and capital program to the Town Council and implement the final budget approved by Council to achieve the goals of the Town;

(f) Submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year;

(g) Make such other reports as the Town Council may require concerning operations;

(h) Keep the Town Council fully advised as to the financial condition and future needs of the town;

(i) Encourage and provide staff support for regional and intergovernmental cooperation; and

(j) Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community.

AREAS FOR DISCUSSION-None UNLESS there is a change in the form of government to Council-Manager.

Section 2.04 – Vice Mayor.

A Vice Mayor will be recommended by the Mayor and elected by the Town Council annually from among its members no later than the second regular Council meeting in March. The Vice Mayor will assume the duties of Mayor in the Mayor's absence.

AREAS FOR DISCUSSION:

" . . . ~~recommended~~ nominated by the Mayor and elected by the Town Council annually from among its members no later than the second regular Council meeting in March. In the event the candidate nominated by the Mayor does not receive sufficient votes from the Town Council to be elected, the floor will be open to nominations from other members of the Town Council and voting will continue until a nominated candidate receives at least three votes. Should a tie occur, whereby two candidates for the position receive only two votes each, the tie will be broken by the drawing of lots in a method chosen by the Town Council. The Vice Mayor will assume the duties of Mayor in the Mayor's absence.

REASONS FOR DISCUSSION:

To avoid impasses and provide a reliable method for the selection of a Vice Mayor for the Town.

HOW IT WOULD READ WITH ALL CHANGES:

A Vice Mayor will be nominated by the Mayor and elected by the Town Council annually from among its members no later than the second regular Council meeting in March. In the event the candidate nominated by the Mayor does not receive sufficient votes from the Town Council to be elected, the floor will be open to nominations from other members of the Town Council and voting will continue until a nominated candidate receives at least three votes. Should a tie occur, whereby two candidates for the position receive only two votes each, the tie will be broken by the drawing of lots in a method chosen by the Town Council. The Vice Mayor will assume the duties of Mayor in the Mayor's absence.

Section 2.05 - Compensation; expenses.

The Town Council may determine the annual salary of the Mayor and Council Members by Ordinance, but no Ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. The Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

AREAS FOR DISCUSSION:

" . . . ~~but no Ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election.~~"

REASONS FOR DISCUSSION:

Confusion as to when any such increase would be effective and to whom it would apply. By leaving it open, Council could place the effective date in the ordinance itself.

Section 2.06 - Prohibitions.

(a) *Holding other office.* Except where authorized by law, neither the Mayor nor any Council Member shall hold any other elected public office during the term for which the Mayor or Member was elected to the Council. No Council Member shall hold any other Town of Eatonville office or employment during the term for which the Mayor or Member was elected to the Council.

Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council Member to represent the Town on the governing board of any regional or other intergovernmental agency.

(b) *Appointments and removals.* Neither the Town Council nor any of its Members shall in any manner control or demand the appointment or removal of any Town administrative officer or employee whom the Mayor or any

subordinate of the Mayor is empowered to appoint, but the Council may express its views and fully and freely discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with administration.* The Council or its Members shall deal with town officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither the Council nor its Members shall give orders to any such officer or employee, either publicly or privately.

AREAS FOR DISCUSSION-None.

Section 2.07 - Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.* The office of the Mayor or a Council Member shall become vacant upon the member's death, resignation, suspension, or removal from office or forfeiture of office in any manner authorized by law.

(b) *Forfeiture of office.* The Mayor and Council Members shall forfeit that office if the Mayor or Council member:

- (1) Fails to maintain the residency requirements as set forth in Section 2.02(a);
- (2) Violates any express prohibition of this Charter;
- (3) Is convicted of a crime involving a felony; or
- (4) Fails to attend four (4) consecutive regular meetings of the Council without being excused by the Council.

(c) *Filling of vacancies.* Should a vacancy in the office of Town Council occur when there are (60) days or less left in the unexpired term, no appointment shall be made and that vacancy will be filled at the next regular municipal election. Should a vacancy occur when there are more than sixty (60) days left in the unexpired term that vacancy shall be filled by the Town Council within thirty (30) days of the date of the vacancy with any qualified resident so appointed to serve until a successor is elected at the next regular municipal election.

If a vacancy is not filled by the Town Council within thirty (30) days after the vacancy occurs as described above, a special election shall be held within ninety (90) days after such vacancy occurs or as soon thereafter as such election may be held; and the person so elected shall serve the remaining unexpired term of office.

Should a vacancy occur in the office of Mayor, the Vice Mayor will assume the office of Mayor until the next regular Municipal election. If there is time remaining in the term of the Vice Mayor after the election, the Vice Mayor shall return to the Council to fill the remainder of the term.

(d) *Extraordinary vacancies.* In the event that all council members are removed by death, disability, resignation, or forfeiture of office, or any combination thereof, the governor shall appoint interim Council Members who shall call a special election within not fewer than thirty (30) days or more than sixty (60) days after such appointment. Such election shall be held in the same manner as the elections under this Charter. Appointees must meet the all requirements for candidates as provided in this Charter.

AREAS FOR DISCUSSION:

(b)(5) A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in a newspaper of general circulation in the town at least one calendar week in advance of the hearing.

REASONS FOR DISCUSSION:

This section should be moved here from Section 2.08, where it doesn't really fit.

Section 2.08 - Judge of qualifications.

The Town Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. **A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public**

hearing on demand, and notice of such hearing shall be published in a newspaper of general circulation in the town at least one calendar week in advance of the hearing.

AREAS FOR DISCUSSION:

~~“A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in a newspaper of general circulation in the town at least one calendar week in advance of the hearing.”~~

REASONS FOR DISCUSSION:

This section on procedure should be included in Section 2.07(b) regarding forfeiture of office.

Section 2.10 - Procedure.

(a) *Meetings.* The Town Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of two (2) or more Members and, when practicable, upon no less than twenty-four (24) hours' notice to each Member. Emergency Meetings: The Mayor or any two (2) members of the council may convene an emergency council meeting upon reasonable notice of such meeting given to each council member. The first order of business at an emergency council meeting shall be the determination, by affirmative vote of at least three (3) members of the Council that an emergency situation involving health, safety, or public welfare warranting council action exists. Only matters relating to the emergency may be considered at the emergency meeting and any action taken at such meeting must be approved by at least three (3) members of the Council, except for emergency ordinances which shall be adopted in accordance with state law.

(b) *Rules and minutes.* The Town Council shall determine its own rules and order of business and shall provide for keeping digital minutes of its proceedings.

(c) *Quorum.* Three (3) members of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

AREAS FOR DISCUSSION-None.

Section 2.11 - Ordinances in general.

All ordinances, including emergency ordinances shall be adopted pursuant to Section 166.041, Florida Statutes, as amended. Every adopted ordinance shall become effective as provided in the body of the ordinance.

AREAS FOR DISCUSSION-None.

REVISED CHARTER

TOWN OF EATONVILLE, FLORIDA

PREAMBLE

We the people of the historic Town of Eatonville, Florida, the Oldest Incorporated Black Municipality in the United States, under the constitution and laws of the State of Florida, in order to provide the benefits of local government responsive to the will and values of our citizens, do hereby adopt this Charter to define the powers and structure of our government. By this action we enable our government to provide services and meet the needs of the people efficiently; allow fair and equitable participation of all residents in the affairs of the Town; provide for transparency, accountability, and ethics in governance; foster fiscal responsibility; promote prosperity and advance the quality of life; and, preserve our unique history for generations to come.

**ARTICLE I POWERS OF
THE TOWN**

Section 1.01. Powers of the Town.

The Town shall have all powers possible for a Municipality to have under the constitution and Laws of the state of Florida as fully and completely as though they were specifically enumerated in this Charter.

Section 1.02. Construction.

The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations

The Town may participate by contract or otherwise with any governmental entity of this State or any other State or States or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Section 1.04. Corporate Boundaries

The corporate boundaries of the Town of Eatonville remain as they exist on the date this amended Charter takes effect, provided that the Town shall have the power to change its boundaries in the manner prescribed by law. A dated description of the boundaries is posted on the Town’s website, is on file at the Town Hall, and is available to the public.

Section 1.05. Form of Government

The Town of Eatonville is a Municipal Corporation with a Mayor-Council form of Government.

ARTICLE II TOWN COUNCIL

Section 2.01. General Powers and Duties

All powers of the Town shall be vested in the Town Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law.

Section 2.02. Eligibility, Terms, and Composition

- (a.) **Eligibility.** Only registered voters of Orange County who have resided within the Town of Eatonville Town limits for twelve consecutive months prior to the date of qualifying shall be eligible to hold the office of Mayor or Council Member.
- (b.) **Terms.** The term of office of the Mayor and Council Members shall be four (4) years elected in accordance with Article V. The terms of all such persons shall commence at the first regularly scheduled Council meeting following the certification of election results by the Canvassing Board. All such elected officials shall hold office until their Successors have been elected and qualified or until their tenure of office has otherwise been terminated in accordance with law.
- (c.) **Composition.** There shall be a Town Council composed of five (5) members, one of whom will qualify for and be designated as Mayor, elected by the voters of the Town, at large, in accordance with the provisions of Article V.

Section 2.03. Mayor; General Duties

The Mayor shall be the Chief Executive Officer of the Town and shall be responsible to the electorate for the Administration of all Town affairs placed in the Mayor's charge by or under this Charter. The Mayor shall:

- (a) Appoint and suspend or remove all Town employees and appointive Administrative Officers provided for by or under this Charter. Department heads shall be appointed by the Mayor within one hundred twenty (120) days of any vacancy and confirmed by the Town Council. The Mayor may authorize any administrative officer who is subject to the Mayor's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (b) Direct and supervise the administration of all departments, offices, and agencies of the Town, except as otherwise provided by this charter or law;
- (c) Chair and be a voting member of the Town Council;
- (d) See that all laws, provisions of this Charter and acts of the Town Council, subject to enforcement by the Mayor or by officers subject to the direction and supervision of the Mayor, are faithfully executed;
- (e) Prepare, or have prepared, and submit the annual budget, budget message, and capital program to the Town Council and implement the final budget approved by Council to achieve the goals of the Town;
- (f) Submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year;

- (g) Make such other reports as the Town Council may require concerning operations;
- (h) Keep the Town Council fully advised as to the financial condition and future needs of the town;
- (i) Encourage and provide staff support for regional and intergovernmental cooperation; and
- (j) Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community.

Section 2.04. Vice Mayor

A Vice Mayor will be recommended by the Mayor and elected by the Town Council annually from among its members no later than the second regular Council meeting in March. The Vice Mayor will assume the duties of Mayor in the Mayor's absence.

Section 2.05. Compensation; Expenses

The Town Council may determine the annual salary of the Mayor and Council Members by Ordinance, but no Ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. The Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.06. Prohibitions

- (a.) **Holding Other Office.** Except where authorized by law, neither the Mayor nor any Council Member shall hold any other elected public office during the term for which the Mayor or Member was elected to the Council. No Council Member shall hold any other Town of Eatonville office or employment during the term for which the Mayor or Member was elected to the Council.

Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council Member to represent the Town on the governing board of any regional or other intergovernmental agency.

- (b.) **Appointments and Removals.** Neither the Town Council nor any of its Members shall in any manner control or demand the appointment or removal of any Town administrative officer or employee whom the Mayor or any subordinate of the Mayor is empowered to appoint, but the Council may express its views and fully and freely discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.
- (c.) **Interference with Administration.** The Council or its Members shall deal with town officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither the Council nor its Members shall give orders to any such officer or employee, either publicly or privately.

Section 2.07. Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) **Vacancies.** The office of the Mayor or a Council Member shall become vacant upon the member's death, resignation, suspension, or removal from office or forfeiture of office in any manner authorized by law.

(b) **Forfeiture of Office.** The Mayor and Council Members shall forfeit that office if the Mayor or Council member:

- (1) Fails to maintain the residency requirements as set forth in Section 2.02 (a);
- (2) Violates any express prohibition of this Charter;
- (3) Is convicted of a crime involving a felony; or
- (4) Fails to attend four (4) consecutive regular meetings of the Council without being excused by the Council.

(c) **Filling of Vacancies.** Should a vacancy in the office of Town Council occur when there are (60) days or less left in the unexpired term, no appointment shall be made and that vacancy will be filled at the next regular municipal election. Should a vacancy occur when there are more than sixty (60) days left in the unexpired term that vacancy shall be filled by the Town Council within thirty (30) days of the date of the vacancy with any qualified resident so appointed to serve until a successor is elected at the next regular municipal election.

If a vacancy is not filled by the Town Council within thirty (30) days after the vacancy occurs as described above, a special election shall be held within ninety (90) days after such vacancy occurs or as soon thereafter as such election may be held; and the person so elected shall serve the remaining unexpired term of office.

Should a vacancy occur in the office of Mayor, the Vice Mayor will assume the office of Mayor until the next regular Municipal election. If there is time remaining in the term of the Vice Mayor after the election, the Vice Mayor shall return to the Council to fill the remainder of the term.

(d) **Extraordinary Vacancies.** In the event that all council members are removed by death, disability, resignation, or forfeiture of office, or any combination thereof, the governor shall appoint interim Council Members who shall call a special election within not fewer than thirty (30) days or more than sixty (60) days after such appointment. Such election shall be held in the same manner as the elections under this charter. Appointees must meet the all requirements for candidates as provided in this charter.

Section 2.08. Judge of Qualifications

The Town Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in a newspaper of general circulation in the town at least one calendar week in advance of the hearing.

Section 2.10. Procedure

(a) **Meetings.** The Town Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. **Special meetings** may be held on the call of the Mayor or of two (2) or more Members and, when practicable, upon no less

than twenty-four (24) hours' notice to each Member. **Emergency Meetings:** The Mayor or any two (2) members of the council may convene an emergency council meeting upon reasonable notice of such meeting given to each council member. The first order of business at an emergency council meeting shall be the determination, by affirmative vote of at least three (3) members of the Council that an emergency situation involving health, safety, or public welfare warranting council action exists. Only matters relating to the emergency may be considered at the emergency meeting and any action taken at such meeting must be approved by at least three (3) members of the Council, except for emergency ordinances which shall be adopted in accordance with state law.

- (b) **Rules and Minutes.** The Town Council shall determine its own rules and order of business and shall provide for keeping digital minutes of its proceedings.
- (c) **Quorum.** Three (3) members of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

Section 2.11. Ordinances in General

All ordinances, including emergency ordinances shall be adopted pursuant to Section 166.041, Florida Statutes, as amended. Every adopted ordinance shall become effective as provided in the body of the ordinance.

ARTICLE III DEPARTMENTS, OFFICES, AND AGENCIES

Section 3.01. General Provisions

- (a) **Creation of Departments.** The Town Council may establish Town departments, offices, or agencies in addition to those created by this charter, and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.
- (b) **Direction by Mayor.** All Departments, offices, and agencies under the direction and supervision of the Mayor shall be administered by an officer appointed by and subject to the direction and supervision of the Mayor.
- (c) **Grievance Process.** The Town Council shall establish and maintain a written grievance process for all town employees.

Section 3.02. Town Clerk

The Town Council shall appoint an officer of the town who shall have the title of Town Clerk. The Clerk shall be appointed and may be removed by a simple majority vote of the Council. The Town Clerk shall be the custodian of all Town Council records; shall give notice of Council

meetings to its members and the public; shall keep minutes of its proceedings; and perform such other duties as are assigned by this charter or the Town Council.

Section 3.03. Town Attorney

There shall be a Town Attorney appointed by the Town Council. The Attorney shall be appointed and may be removed by a simple majority vote of the Council; and, shall be a member in good standing of the Florida Bar. The Town Attorney shall serve as chief legal advisor to the Council, the Mayor, and all town departments, offices, and agencies; shall represent the Town in legal proceedings; and shall perform any other duties prescribed by state law, by this charter, or by ordinance.

Section 3.04. Chief Administrative Officer

The Mayor shall appoint a Chief Administrative Officer on the basis of education and experience in the accepted practices of local government management. The Town Council shall confirm the appointment. The Chief Administrative Officer will assist the Mayor in carrying out executive responsibilities and will provide central coordination of administrative functions.

ARTICLE IV FINANCIAL MANAGEMENT

Section 4.01. Fiscal Year

The fiscal year of the Town shall begin on the first day of October and end on the last day of September.

Section 4.02. Submission of Budget

On or before the first day of August of each year, the Mayor shall submit to the Town Council a budget for the ensuing fiscal year and an accompanying message.

Section 4.03. Budget Message.

The Mayor's budget message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the Town for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the Mayor deems desirable.

Section 4.04. Budget.

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems desirable or the Town Council may require for effective management.

Section 4.05. Town Council Action on Budget

The Town Council shall adopt an annual budget in accordance with all applicable state statutory provisions including but not limited to Sections 166.241, 200.001, 200.065, and 200.068, Florida Statutes, as amended.

Section 4.06 Amendments After Adoption

Budget amendments after adoption of an annual budget shall be processed according to Sections 166.241, 200.065, and 218.503, Florida Statutes, as amended.

Section 4.07. Administration and Fiduciary Oversight of the Budget.

The Town Council shall provide by Ordinance the procedures for administration and fiduciary oversight of the budget.

Section 4.08. Independent Audit.

Pursuant to the provisions of Sections 11.45, 119.07, 163.31801, 166.021, 218.39, and 218.391, Florida Statutes, as amended, the Town Council shall provide for an independent annual audit of all Town accounts and may provide for more frequent audits as it deems necessary.

ARTICLE V ELECTIONS

Section 5.01. Nonpartisan Elections

All qualifications and elections for the offices of Town Council and Mayor shall be conducted on a nonpartisan basis without regard for designation of political party affiliation of any candidate, nominee, or any nomination petition or ballot.

Section 5.02. Town Council Seats

Town council seats are hereby designated as seats 1,2,3,4, and 5 for the purposes of identification. The Mayor shall hold seat 1. Each candidate for the office of council shall declare at the time of qualifications the seat to which such candidate seeks election. No person shall run for more than one council seat in an election. Candidates for Town Council seats shall be elected at large. If more than two candidates qualify for the same seat, the candidate receiving the most votes shall be deemed elected. In the event of a tie vote, such office shall be filled by the drawing of lots among the candidates receiving the same number of votes. Such determination by lot shall be made under the direction of the Town Council in existence prior to the election, no later than seven (7) days after the certification of the election. The candidates shall be notified of the time and place of the drawing of lots and have the right to be present.

Section 5.03. Elections.

Town elections shall be conducted in accordance with the general election laws of the State of Florida, Chapters 97 -106 Florida Statutes, as amended. Regular town elections shall be held on the first Saturday in March of each election year. All elections will be held in even years except for the first election following the adoption of this revised charter. In 2017, seats 4 and 5 will be elected for three (3) terms of office, but beginning with the 2020 election and every four (4) years after that, the terms of office for seats 4 and 5 will be four (4) years. Beginning in 2018, and every four (4) years after that, Council seats 1, 2, and 3 will run for election. If a regular election occurs in the same month a Presidential Preference Primary is conducted, the Town Council may choose to hold the Town election on the same date as the primary.

Section 5.04. Canvassing Board

A town canvassing board shall be established for the purposes of canvassing ballots and election results. The canvassing board shall be composed of the Town Clerk and two (2) citizens who shall be selected by majority vote of the Town Council at the time the election is called.

Section 5.05. Recall

The registered voters of the Town shall have power to recall elected officials of the Town pursuant to Section 100.361, Florida Statutes, as amended.

Section 5.06. Initiative and Citizen Referendum

Initiative. The registered voters of the Town shall have power to propose ordinances to the Town Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a Town election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, or salaries of town officers or employees, or ordinances pertaining to comprehensive planning or zoning.

Citizen Referendum. The registered voters of the Town shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a town election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of Town officers or employees, or ordinances pertaining to comprehensive planning or zoning.

(a) Commencement of Proceeding; Petitioners' Committee; Affidavit.

Any five (5) registered voters may commence initiative or citizen referendum proceedings by filing with the Town Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(b) Petitions.

- (1) **Number of Signatures.** Initiative and citizen referendum petitions must be signed by registered voters of the town equal in number to at least ten percent (10%) of the total number of registered voters as of the last general election.
- (2) **Form and Content.** All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation, the full text of the ordinance proposed or sought to be reconsidered.
- (3) **Affidavit of Circulator.** Each paper of a petition shall have attached to it when filed, an affidavit executed by the person circulating it stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (4) **Time for Filing Referendum Petitions.** Referendum petitions must be filed within thirty (30) days after adoption by the Town Council of the ordinance sought to be reconsidered.

(c) Procedure after Filing.

- (1) **Certificate of Clerk; Amendment.** Within twenty (20) days after the petition is filed, the Town Clerk, with the assistance of the Supervisor of Elections, shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk within two (2) days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (2) and (3) of Section 5.06 (b) above, and within five (5) days after it is filed, the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the Clerk shall promptly present his or her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- (2) **Council Review.** If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

- (3) **Court Review; New Petition.** A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(d) Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition;
- (2) The petitioners' committee withdraws the petition,;
- (3) The Council repeals the ordinance; or
- (4) Thirty (30) days have elapsed after a vote of the Town on the ordinance.

(e) Actions on Petitions.

- (1) **Action by Council.** When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II of this Charter or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within sixty (60) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the Town.
- (2) **Submission to Voters of Proposed or Referred ordinances.** The vote of the Town on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one year from the date of the final Council vote thereon. If no regular town election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) **Withdrawal of Petitions.** An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the town by filing with the Town Clerk a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(f) Results of Election.

- (1) **Initiative.** If a majority of the voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (2) **Referendum.** If a majority of the registered voters on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VI

CHARTER AMMENDMENTS

Section 6.01. Amendment

Amendments to this Charter may be framed and proposed pursuant to Section 166.031 Florida Statutes, as amended.

Section 6.02. Charter Review

There shall be a periodic review of this Charter by a charter review advisory committee appointed by the Town Council in 2024 and every eight (8) years thereafter.

ARTICLE VII

TRANSITION AND SEVERABILITY

Section 7.01. General Law

All Town Ordinances, Resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

Section 7.02. Severability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.

The Florida Municipal Officials' Manual



the John Scott Dailey

FLORIDA
INSTITUTE OF
GOVERNMENT

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Chapter 2

Primary Elements of Municipal Government

Section 2-1

Basic Forms of Municipal Government

Borrowing from the English municipal model, America's cities, towns and villages are governed by a legislative body known as a city council (or city commission). This elected body has several responsibilities, which are specified in the charter or incorporating documents. In Florida, each municipality has a charter (see Section 2-2); this document specifies the composition of the elected body and duties of appointed officials.

The council is responsible for creating and enforcing the laws, called ordinances, of the city. The council also has an oversight role that varies in its responsibilities based upon the form of government specified in the charter. The council also adopts and appropriates the city's funds through its budgetary responsibilities, and has fiduciary responsibilities as trustees of public funds. In addition, the council is expected to have a vision for the city's future, which may or may not be detailed in a strategic plan. In Florida, each municipality is also required by state law to have a comprehensive plan, known as the "comp plan" for land-related decisions within its boundaries. Lastly, the city may choose to be a service provider for a utility, utilities or other services, as guided by the citizens and the council.

Throughout the U.S., cities adopt a form of government that sets their structures. The most common of these forms as found in Florida are specified below:

A. COUNCIL-WEAK MAYOR FORM

The original form of municipal government in America was the council-weak mayor form, which was near-universal in the nineteenth century. It is still widely used, particularly in small towns. In most weak-mayor systems, the office of mayor is simply rotated among the elected council members on an annual basis. The council retains collective control over administration, including appointment and dismissal of municipal employees and appointments to boards and commissions. Control of some functional areas (e.g., parks, library) may be delegated by charter or ordinance to semi-independent boards and commissions. In general, the mayor's authority is little, if any, greater than that of the other council members. Department heads – e.g., the clerk, police chief, public works director – report to the council as a whole or to the mayor in his or her capacity as spokesman for the council. Sometimes the municipal clerk functions as a de facto chief administrator.

B. COUNCIL-STRONG MAYOR FORM

The council-strong mayor form gradually evolved from the council-weak mayor form. It provides for a distinct division of powers between the council and the mayor. The mayor actually is the chief executive, that is, the office of mayor has substantial influence in the policy-making process and substantial control over administration. The mayor holds important budgetary and appointing powers, along with the power to veto legislative actions of the council. Administrative authority is not shared with a number of independent boards and commissions. The mayor enjoys general power to appoint people to boards and commissions. Depending upon the city charter, the mayor may (or may not) vote with the legislative body.

Some large cities with a strong mayor have established the position of chief administrative officer under the mayor to handle the day-to-day operations of the government, thus leaving the mayor free to concentrate on policy formulation and ceremonial tasks. In this way, administrative management by a hired assistant to the mayor may be combined with strong political and policy leadership by the mayor.

C. COMMISSION FORM

The commission form combines both executive and legislative powers in a governing board, the commission. There is no single chief executive; rather, the commissioners, who serve collectively as the policy-making body, also serve individually as heads of the principal departments. In the basic commission form, there is neither a mayor nor a city manager. Today, most commission-form cities do select or elect a mayor.

Early advocates of the commission form hoped that the concentration of power in the hands of a few elected council members would make administration more effective and would enhance accountability to the public.

The commission plan was first employed in Galveston, Texas, after a disastrous hurricane almost destroyed the city in 1900. It enjoyed widespread popularity for about two decades. Since 1920, however, its use has declined greatly. Although offering more integration of policy and administration than the council-weak mayor form, the commission form tends to provide inadequate coordination, insufficient internal control, and non-professional direction of administration.

It should be noted that, in Florida, municipalities use the terms "council" and "commission" without reference to the distinction between the commission form and other forms of municipal government. Many Florida municipalities designate their legislative bodies as the "commission" but do not employ the commission form of government. One should not presume that a Florida municipality employs the commission form merely because its policy-making body is labeled "commission."

D. COUNCIL-MANAGER FORM

One of the key elements in 20th-century municipal reform has been the proposition that a strong and non-political executive office should be the administrative centerpiece of municipal government. This concept has been implemented in thousands of American cities in the 20th century by the adoption of the council-manager form of government. This form parallels the organization of the business corporation: voters (stockholders) elect the council (board of directors), including the mayor (chairman of the board), which, in turn, appoints the manager (chief administrative officer). Unlike the two council-mayor forms, where the emphasis is on political leadership, the prevailing norms in the council-manager form are administrative competence and efficiency.

Under the council-manager form, the manager is the chief administrative officer of the city. The manager supervises and coordinates the departments, appoints and removes their directors, prepares the budget for the council's consideration, and makes reports and recommendations to the council. All department heads report to the manager. The manager is fully responsible for municipal administration.

The mayor in a council-manager form is the ceremonial head of the municipality, presides over council meetings, and makes appointments to boards. The mayor may be an important political figure, but has little, if any, role in day-to-day municipal administration. In some council-manager cities, the office of mayor is filled by popular election; in others, by council appointment of a council member.

The council-manager plan, first used in 1908 in Staunton, Va., received nationwide attention six years later when Dayton, Ohio, became the first sizable city to adopt it. Thereafter, the plan's popularity enjoyed steady but not spectacular growth until after World War II. At that time, many municipalities were confronted with long lists of needed services and improvements that had backlogged since the Depression years of the 1930s. Faced with such challenges, many municipalities adopted the council-manager form. The plan has been especially attractive to small- and medium-sized localities. It is used in a majority of American municipalities with populations of 25,000 to 250,000. It has been strongly promoted since the 1920s by the National Civic League.

The council-manager form is widely viewed as a way to take politics out of municipal administration. The manager himself is expected to abstain from any and all political involvement. At the same time, the council members and other "political" leaders are expected to refrain from intruding on the manager's role as chief executive. Of course, the manager, who is hired and fired by the council, is subject to the authority of the council, but council members are expected to abstain from seeking to individually interfere in administrative matters, including actions in personnel matters. Some city charters provide that interference in administrative matters by an elected city official is grounds for removal of the elected official from office.

E. MUNICIPAL-GOVERNMENT FORMS IN FLORIDA

In Florida, a municipality is free to adopt any of the basic municipal-government forms identified above or any variation thereof. State law does not prescribe one or more permissible forms, nor does it prohibit any. The Florida Constitution requires only that "each municipal legislative body shall be elective" (Art. 8, Sec. 2 (b), Const.); state statutes require only that an acceptable proposed municipal charter is one which "prescribes the form of government and clearly defines the responsibility for legislative and executive functions."

Many Florida cities have forms of government that combine elements of the four basic structures. These cities, having "hybrid" forms outlined in their charters, are difficult to categorize. More elements of the council-weak mayor form are identified in these hybrids, and carry-over elements of the commission form have also been found.

The most common form of city government in Florida today is the council-manager form. A second common form, found in many smaller municipalities, is the council-weak mayor form. In Florida, in recent years, most changes of municipal-government form have been from some other form to the council-manager form. Approximately 270 Florida cities (out of more than 400) have a position of manager or a similar position, such as "administrator."

In all Florida cities, members of the council or commission are elected by the voters of the city. The mayor may be simply a member of the council, elected by the council to serve as mayor; may be a separate office (that is, not a member of the council) or elected by the people. Certain administrative positions are filled by elections in a few cities. These include the offices of clerk, police chief and fire chief.

REFERENCES

Florida Constitution: Article 8, Section 2(b). Florida Statutes: Section 165.061. *Membership Directory*, Florida League of Cities. *Model City Charter*, 8th Edition, National Civic League, www.ncl.org.

Table 2-1

Comparison of Municipal Executive Types

SOURCE: International City/County Management Association, Directory of Local Governments, Washington, D.C.: ICMA, 1978, p. 5

DUTIES	TYPES OF EXECUTIVE	
	Municipal Manager (council-manager position)	Municipal Administrator (general management position)
Appointment	The manager should be appointed by a majority of the council for an indefinite term and removable only by a majority of the council.	The administrator should be appointed by the council or the mayor.
Policy Formulation	The manager should have direct responsibility for policy formulation on overall problems.	(same as municipal manager)
Budget	The manager should have responsibility for preparation of the budget presentation to the council, and direct responsibility for the administration of the council-approved budget.	The administrator should have major responsibilities for preparation and administration of the budget.
Appointing Authority	The manager should have full authority for the appointment and removal of at least most of the heads of the principal departments and functions of the municipal government.	The administrator should exercise significant influence in the appointment of key administrative personnel.
Organizational Relationships	Those department heads whom the manager appoints should be designated by legislation as administratively responsible to the manager.	The administrator should have continuing direct relationships with operating department heads on the implementation and administration of programs.
External Relationships	Responsibilities of manager should include extensive external relationships involving the overall problems of city operations.	(same as municipal manager)
Qualifications	The qualifications for the position should be based on the educational and administrative background of candidates.	(same as municipal manager)

Section 2-2

The Municipal Charter

A. SIGNIFICANCE OF THE CHARTER

The municipal charter is an essential and fundamental element of every Florida municipality. No municipal government may be created without a proposed charter, and no municipal government may exist without a charter.

In addition, the municipal charter is vital to the democratic and effective functioning of a municipal government. It must contain basic provisions for the organization of municipal government. A good charter is one which presents a concise and workable legal framework for the government of the municipality. In addition, says the National Civic League, a good charter is one which "sets before the citizens a clear picture of their own powers and responsibilities and before the officials and employees a statement of their duties and mutual interrelations." The adoption of a good charter, says the League, "is an affirmation by the citizens that they mean to have good government and is the legal framework within which such government can be won and the more easily maintained."

A municipal charter must originate within the community and must be formally approved by a majority of the registered voters of the community. The charter is, in a sense, a compact among the residents of the community regarding the extent and form of government which they desire.

B. CONTENTS OF A CHARTER

A charter should contain details which are of such importance that they should not be subject to change simply by ordinance, without a public referendum. By including certain provisions in the city charter, the citizens ensure that their provisions cannot be changed hastily and without popular consent. On the other hand, subjects of less importance should not be in the charter because it should be easier to make necessary changes affecting them. In short, a happy medium should be found between including "enough" and including "too much" in the charter.

1. Recommended Subjects

What subjects should be included in a charter? The National Civic League has recommended a charter article for each of the following subjects:

1. Powers of the City
2. City Council
3. City Manager (or other chief administrator)
4. Administrative Departments
5. Financial Procedures
6. Planning
7. Nominations and Elections
8. Initiative and Referendum
9. General Provisions
10. Transitional Provisions

2. Models and Samples

The National Civic League has prepared a model charter, which may serve as a guide in the preparation or revision of a charter. See the following:

- *Model City Charter*, National Civic League, 1445 Market Street, #300, Denver, CO, 80202-1728, (303) 571-4343, www.ncl.org. Revised each decade: 8th edition in 2003.

Copies of current Florida city charters may be obtained from the cities themselves and are often posted on-line at city websites. Consult the FLC Municipal Directory for email addresses, and if inquiring for a copy, ask the city clerk's office for assistance. The Florida League of Cities can lend copies of the charters of several Florida cities.

3. The Charter and Home Rule

With the advent of municipal Home Rule in 1969, a municipal government is not restricted to those powers which are listed in its charter. A city may exercise any power for municipal purposes which is not explicitly prohibited by law. That being the case, the charter need not contain an exhaustive list of municipal powers.

Despite the general grant of home-rule authority, a city may not exercise powers which are prohibited to municipalities by the constitution or general law; consequently, it is useless to put such provisions into a charter, as any such provisions found in a charter are null and void.

With certain exceptions, limitations of power contained in a municipal charter prior to July 1, 1973, were nullified in 1973 by legislative enactment of Chapter 73-129, Laws.

4. Statutory Requirements

To be accepted by the Legislature, a proposed charter must meet these conditions regarding its content:

1. It must prescribe the form of government and clearly define the responsibility for legislative and executive functions.
2. It must not prohibit the city council from levying any tax authorized by the Constitution or general law.

C. PREPARATION OF A CHARTER

Preparation of a municipal charter must occur as part of the incorporation process. See the next chapter for details.

D. AMENDING A CHARTER

Amendments to a municipal charter may be proposed either by the council (by ordinance) or by registered voters (by means of a petition). Charter amendments must be approved by the city's electors in a referendum.

All parts of a charter may be amended except that part defining the boundaries of the city. Boundary changes may be made only by following the statutory procedures for annexation and contraction, found in Chapter 171, F.S. Once these procedures are followed, boundary changes may be reflected in the language of the charter by action of the council, by ordinance and without referendum.

Two other types of charter provisions may be changed without referendum. First, a municipal department which is provided for in the charter may be abolished by unanimous vote of the council. Second, charter language which has been judicially construed to be contrary to the federal or state constitution may be removed, again by unanimous vote only. In addition, in charter counties the provisions of the county charter supersede the provisions of the city ordinances. For more information

regarding charter adoption and dissolution, see the section on "Incorporation, Merger and Dissolution" in this manual.

REFERENCES

Florida Statutes: Chapters 165, 166 and 171.

Section 2-6

Key Officials and Their Roles

Key city offices include those of mayor, council member, manager/administrator, clerk and attorney. Commissions, boards and advisory committees also often play key roles.

A. MAYOR

The roles of mayor and council member vary widely in scope and power throughout the United States. This variety is linked primarily to the specific form of government which a city has adopted, although additional legal restrictions in some states, as well as individual personality, may also be significant factors.

1. Qualifications

Formal qualifications for the office of mayor may be specified in the city charter. Typically, the sole stated qualification is that one be a qualified elector of the city. In some cities, a higher minimum age is required (e.g., 21 or 25); otherwise, the only age requirement is that which is implicit in the qualified-electror requirement. Other qualifications required by some cities include a requirement that one have been a resident of the municipality for some minimum period (e.g., one year, three years) and a property-ownership requirement (i.e., that one be a "freeholder").

2. Selection Method

The method of selection of the mayor is specified in the city charter. It is either by popular election or by appointment by the council. In some cities, the mayor is elected by popular vote for a two-year or four-year term; in others, the council elects one of its members as mayor, usually on an annual, rotating basis.

3. Powers

The office of mayor has all the powers designated to it by the city charter, or delegated to it by the council, provided that these designated or delegated powers are not inconsistent with the charter or state and federal constitutions and laws. The mayor must look to the charter and to specific delegations of authority by the council for most of his formal powers; in addition, some powers and duties are assigned to mayors by state and federal law. In general, the mayor should claim and should attempt to exercise only those powers for which explicit authorization is found in one or another of these sources. The role of the mayor varies widely from one community to another. At one extreme, the mayor may be solely a ceremonial figure, there to play certain ceremonial roles but playing no part at all in policy-making and administration. At the other extreme, the office of mayor may be designed (by charter provisions) as the chief-executive position of the municipality, analogous to the president's role in the national government; in this event, the mayor enjoys significant powers in both the legislative process and the administrative functions of the municipal government.

In general, the role of the mayor is determined by the basic form of municipal government which is utilized by the community. These basic forms are discussed elsewhere in this manual, in "Basic Forms of Municipal Government," where additional information concerning mayoral powers and duties is discussed.

At the same time, it should be emphasized that the formal role of the mayor in a given city is primarily determined by charter provisions and ordinances of that particular city, not by any common pattern or "model" arrangement. All existing charter provisions and ordinances should be adhered to; if change is needed in the role of the mayor, the relevant charter provisions or ordinances should be changed. All Florida cities do not have a "mayor," some have chosen to use "council chairperson" as the title for the municipality's ceremonial leader.

B. COUNCIL MEMBERS

The elected municipal governing body is responsible for the policy-making function of city government. Municipal governing bodies in Florida are titled council, commission, board of aldermen, or councilor. The choice of title for the legislative body has no legal significance; whether "council," "commission," "aldermen," or "councilor," the body's functions and powers are the same. (Throughout this manual, "municipal governing body" and "city council" are used interchangeably.)

Members may be elected at-large or from districts. The number of council members varies from three to 19, with five being the most common number. In many Florida communities, the mayor is recognized as the presiding officer of the council, whether as a voting or a non-voting member; in others, a council member is elected by the council as its "president" and presiding officer. In most cities, the council sets the qualifications for its members; they are quite similar to those for mayor. Terms of office for council members are either two or four years. In some cities, all council seats are elected simultaneously; in others, council elections occur on a "staggered" basis. The staggered-term system serves to eliminate the possibility of an entirely new and inexperienced council being elected at one time.

The mayor and each council member may receive salary and/or reimbursement of expenses, as provided by charter or ordinance.

A vacant council position may be filled either by appointment or by special election. Rules concerning the filling of vacancies are usually contained in the city charter.

C. MANAGER/ADMINISTRATOR

The council-manager form of municipal government provides for a separation of legislative and executive powers. Legislative authority is vested in the council, while a manager, appointed by the council, serves as chief administrator. Depending on local preference, the administrator position may be titled "manager" or "administrator." If the position is not provided in the charter, it has been found in a few cities as an ordinance. For questions on these distinctions and job descriptions, please contact the Florida City and County Management Association (see reference page).

D. CLERK (AND TREASURER)

The city charter should delineate the central duties and responsibilities of the municipal clerk, which generally include mandatory attendance at council meetings, taking and transcribing the minutes of the council meetings, and being responsible for all or most official records. Additional duties may be assigned by ordinance or by the clerk's supervisor (mayor or manager). These additional duties could include those of treasurer, purchasing officer, clerk to the city board of elections and the issuance of licenses and permits, as well as other administrative functions.

In a handful of Florida communities, the office of clerk is an elective office; in most, the clerk is appointed by the council or by the manager/administrator. In some communities, one person is designated as both city manager and city clerk.

As with the city clerk, the position of treasurer is generally established by charter. The treasurer serves as chief fiscal officer of the municipality. Specific duties of the treasurer include the collection, receipt, and custody of payment of both municipal employees and all vendors providing goods and services. In addition, the treasurer could be responsible for all municipal monies; the keeping and monitoring of all financial records; the investment of idle funds; and the assigned specific duties in the preparation of the annual budget. The treasurer also reports periodically (monthly, quarterly and/or annually) to the council on the financial condition of the municipality.

Municipal finance officers have a statewide association; see reference page for details.

In many small Florida communities, the city (or town) clerk functions as a general municipal administrator. In such a municipality, with a part-time mayor and no manager, the clerk is the chief administrative officer. In addition to the previously mentioned duties, therefore, the clerk will administer the personnel ordinance, prepare the municipal budget, interview and recommend candidates for employment, process citizens' complaints, and make recommendations to the council on various matters affecting the municipality. For this reason, the position of city clerk is of great importance in those Florida cities which have neither a strong mayor nor a city manager. City clerks have a statewide association; see the reference page for information.

E. ATTORNEY

In most cities in Florida, the council appoints a city attorney for legal counsel. A city attorney may be a full-time employee, a part-time employee, or may be hired on a case-by-case basis. One attorney may represent more than one municipality. A city attorney should be a member of the state and national bar. The council will determine the city attorney's compensation. The city attorney is a legal advisor, primarily. At the request of the governing body or designated staff members, the attorney renders opinions on legal issues affecting the city. The attorney gives legal counsel on the drafting and implementation of ordinances and should keep the council and staff informed of new laws and judicial opinions that could affect the city. The attorney may also represent the city in court, although cities often employ other (additional) counsel to handle court cases.

The city attorney serves at the pleasure of the council and handles whatever responsibilities are designated to his office. In some cities, the council is quick to involve the attorney in varied aspects of city policy-making and administration; in other cities, the attorney's services are resorted to only when a legal issue absolutely requires it.

City attorneys have a statewide association; see reference page for details.

F. COMMISSIONS, BOARDS AND ADVISORY COMMITTEES

In Florida, a municipality's authority to establish commissions, boards and advisory committees to carry out particular municipal functions may be inferred from Section 166.021, F.S., which describes the general and express powers of a municipal corporation. The general power of a municipality to create commissions, boards, and advisory committees should be stated in the municipal charter. The powers, duties, and composition of permanent bodies should also be included in the municipal charter.

Temporary bodies may be created and abolished by resolution or administrative order. Their duties and powers, composition, and any compensation should be determined by the council, if not specified by charter or state law. Commissions and boards sometimes are assigned significant powers of policy-making or administration.

Advisory committees serve an important function in providing expertise in certain areas of municipal concern. Usually established at the request of the council, they may be made up of both citizens and council members and may deal with issues and problems which the council deems worthy of special consideration and advisement. The advisory committee adds another degree of municipal responsiveness to the public interest. It provides an excellent opportunity for citizens to actively participate in their local government. The advisory committee is not of the same significance as a commission or board, lacking the power to make or administer policy on its own. Nevertheless, the advisory committee may play an important role by taking up matters that deserve extra attention and consideration that a group of interested, concerned citizens can provide.

It should be noted that commissions, boards and advisory committees and the individual members thereof are subject to open-meetings ("Sunshine Law") and public-record laws; individual members may be required to comply with financial-disclosure laws, also. For more information on these laws, see Chapter 3, "Standards of Conduct," in this manual. Advisory board training is encouraged for all citizens who serve on them.

REFERENCES

Elected Officials Handbooks, International City/County Management Association, 1120 G Street N.W., Washington, DC 20005.