

ORDINANCE NO. 641

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, SUBMITTING TO REFERENDUM AMENDMENTS TO THE TOWN OF OCEAN RIDGE TOWN CHARTER; AMENDING ARTICLE III “LEGISLATIVE”, SECTION 3.05 “MAYOR AND VICE-MAYOR”, TO MODIFY THE SELECTION OF MAYOR AND VICE-MAYOR; AMENDING SECTION 3.06 “VACANCIES; FORFEITURES OF OFFICE; FILLING OF VACANCIES”, TO MODIFY WHEN A VACANCY OCCURS, HOW TO FILL THE VACANCY AND WHEN A SPECIAL ELECTION WOULD BE REQUIRED AND PROVIDING THE REQUIREMENTS FOR FORFEITURE OF OFFICE AND TO PROVIDE FOR SUSPENSION FROM OFFICE; AMENDING SECTION 3.07 “PROCEDURE”, TO PROVIDE FOR 24 HOURS NOTICE FOR SPECIAL MEETINGS RATHER THAN 12 HOURS AND TO PROVIDE THAT THERE MUST BE THREE AFFIRMATIVE VOTES BY THE COMMISSION TO APPROVE ANY ACTION; ESTABLISHING THE DATE OF MARCH 12, 2019, FOR THE REFERENDUM; PROVIDING A BALLOT TITLE AND QUESTION; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Ocean Ridge, Florida (the “Town”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, pursuant to § 166.021 and § 166.031, Fla. Stat., the Town of Ocean Ridge Town Charter (the “Charter”) may be amended through the Town’s exercise of its authority, including the amendment of those portions of its Charter which require a referendum, provided that a majority of the electors in a referendum affirmatively vote to amend the Charter; and

WHEREAS, the Town Commission appointed a Charter Review Committee who met on several occasions at duly noticed public meetings and recommended several amendments to the Town Charter; and

WHEREAS, §166.031, Fla. Stat. authorizes the governing body of a municipality to submit proposed amendments to the Charter of the municipality in the form of an ordinance to the electors of the municipality; and

WHEREAS, §100.342, Fla. Stat., requires that the Town publish two (2) notices in a newspaper of general circulation in Palm Beach County, evidencing the Town’s intention to

determine whether a majority of the qualified electors of the Town approve of the proposed amendments to the Charter; and

WHEREAS, the Town shall comply with the notice requirements; and

WHEREAS, the Town Commission finds that the holding of a referendum on the amendments to the Charter set forth below (the “Referendum”) furthers the public health, safety and general welfare of the residents and citizens of the Town.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:

SECTION 1 – Findings of Fact: The **WHEREAS** clauses set forth above are adopted herein as findings of fact.

SECTION 2 – Amendment: Town Charter, Article III “Legislative”, Section 3.05 “Mayor and Vice-Mayor”, is amended to read as follows:

Section 3.05. - Mayor and Vice-Mayor.

The Commission shall select from among its members, by a majority vote of the Commission, a Mayor and Vice-Mayor, who shall serve at the will of the Commission. Selection of the Mayor and Vice-Mayor shall be made at the first regular Commission meeting after the Town election or at any time as a majority of the Commission selects another Mayor or Vice-Mayor.

The Mayor shall preside at meetings of the Commission, shall be recognized as head of Town government for all ceremonial purposes, by the Governor for purposes of military law, for services of process, execution of contracts, deeds and other documents. The Mayor shall have no administrative duties except as required to carry out the responsibilities herein.

The Vice-Mayor shall act as mayor during absence or disability of the Mayor and, if a vacancy of the Mayor occurs, shall become interim Mayor until a Mayor is selected by a majority vote of the Commission.

In the event the Vice-Mayor becomes an interim Mayor, the Commission may select a new Vice-Mayor, by a majority vote of the Commission, for that period of time until a Mayor is selected.

SECTION 3 – Amendment: Town Charter, Article III “Legislative”, Section 3.06 “Vacancies; forfeitures of office; filling of vacancies”, is amended to read as follows:

Section 3.06. - Vacancies; forfeitures of office; filling of vacancies; suspension.

~~(a) *Vacancies.* The office of a Commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of his office, such forfeiture to be declared by the remaining members of the Commission.~~

~~(b) *Forfeiture of office.* A Commissioner shall forfeit his office if he (1) lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law, or (2) violates any standard of conduct or code of ethics established by law for public officials, such violation to be determined by remaining members of the Commission.~~

(a) *Vacancies.* A vacancy in the office of a Commissioner shall occur upon the incumbent's death, inability to fulfill the duties of the office, resignation, appointment to another public office, judicially determined incompetence, or removal or forfeiture of office as described in this section.

(b) *Forfeiture of office.*

1. A member of the Commission may forfeit the office if the member:

a. Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law;

b. Violates any express prohibition of this charter;

c. Is convicted of a criminal misdemeanor, which criminal misdemeanor involves the office of Town Commission, or enters a plea of guilty or nolo contendere thereto, even if adjudication is withheld;

d. Is convicted of a felony, or enters a plea of guilty or nolo contendere to a crime punishable as a felony, even if adjudication is withheld;

e. Is found to have violated any standard of conduct or code of ethics established by law for public officials or has been suspended from office by the Governor, unless subsequently reinstated as provided by law; or

f. Misses three consecutive regularly scheduled Commission meetings, unless excused by the Commission. The burden of establishing good cause for absences shall be on the Commission member in question.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled Commission meeting, or sooner as determined by the Commission, and the member may be declared to have forfeited office by majority vote of the Commission. A Commission member whose qualifications are in question or who is otherwise subject to forfeiture of his or her office shall not vote on such matters.

2. The Commission shall be the sole judge and shall hear all questions relating to forfeiture of a Commission member's office, including whether good cause for absence has been or may be established. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence.

(c) *Filling of vacancies.* A vacancy on the Commission shall be filled by a majority vote of the remaining members of the Commission for the period of time until the next election, when a Commissioner shall be elected for the remainder of the term vacated. If the Commission is unable to select a person to fill the vacancy, the Commission may call a special election.

(d) *Extraordinary vacancies.* ~~In the event that all members of the Commission are removed by death, disability or forfeiture of office, the Governor shall appoint an interim Commission that shall call a special election.~~ In the event that three or more of the Commission members are removed by death, disability, recall, forfeiture of office, or resignation, the Governor shall appoint interim Commission members who shall call a special election at least 30 days, but no more than 60 days, after such appointment. Such election shall be held in the same manner as elections under this charter. However, if there are fewer than 6 months remaining from the date of appointment to the date of the next regular election, the interim Commission members appointed by the Governor shall serve until the next regular election. Appointees must meet all requirements for candidates as provided in this charter.

(e) *Suspension from office.* Any Commission member shall be suspended from office upon return of an indictment or issuance of any information charging any Commission member with any crime which is punishable as a felony or with any crime arising out of his or her official duties which is punishable as a first degree misdemeanor. Pursuant thereto:

1. During the period of suspension, the Commission member shall not perform any official act, duty, or function, or receive any pay, allowance, emolument, or privilege of office.
2. If the Commission member is subsequently found not guilty of the charge, or if the charge is otherwise dismissed, reduced, or altered in such a manner that suspension would no longer be required as provided herein, the suspension shall be lifted and the Commission member shall be entitled to receive full back pay and such other emoluments or allowances as he or she would have been entitled to had the suspension not occurred.

SECTION 4 – Amendment: Town Charter, Article III “Legislative”, Section 3.07 “Procedure”, is amended to read as follows:

Section 3.07. - Procedure.

(a) *Meetings.* The Commission shall meet regularly at least once in every month, at such times and places as the Commission may prescribe by rule. Special meetings may be held on the call of the Mayor or of a majority of the members and, whenever practicable, upon no less than ~~twelve (12)~~ twenty-four (24) hours' notice to each member and the public unless there is an immediate threat to the public health, safety or welfare. All meetings shall be public.

(b) *Rules and journal.* The Commission shall determine its own rules and order of business. In the event the Commission does not adopt rules, it shall be governed by Robert’s Rules of Order, revised edition, in conducting its meetings.

(c) *Voting.* ~~Voting, on ordinances and resolutions, shall be by majority vote, or if requested by a Commissioner, by a roll call, and shall be recorded in the journal. A majority of the Commission shall constitute a quorum; but a smaller number may adjourn from time to time~~

and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Commission. No action of the Commission except as otherwise provided in the preceding sentence and in Section 3.07 shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present three members, except as otherwise set forth in this charter.

- (d) *Annual audit.* At the end of each fiscal year the Commission shall select and employ competent independent auditors to analyze the Town's financial activities and transactions for the year ended and to certify their opinion of the fiscal conditions they report.

SECTION 5. In accordance with the Florida Constitution, Chapters 101 and 166, Florida Statutes, as amended, the Charter and the Code of Ordinances of the Town, the amendments to the Town Charter contained herein shall be submitted to the qualified electors of the Town of Ocean Ridge, Florida, for the purpose of determining the question of whether the amendments set forth in sections 2 through 4 shall be adopted.

SECTION 6. A Referendum Election shall be held in the Town of Ocean Ridge, Florida, on the 12th day of March, 2019, to determine whether or not a majority of the qualified electors of the Town of Ocean Ridge, Florida, support the proposed amendments to the Town 's Charter as set forth above in sections 2 through 4 of this Ordinance.

SECTION 7. The Supervisor of Elections of Palm Beach County, Florida, shall determine polling locations or places, and all qualified electors of the Town of Ocean Ridge, Florida, who vote in the Referendum, shall vote at those designated polling places. The polls shall be opened on the date of the Referendum on the proposed Town of Ocean Ridge, Florida, Charter Amendments from 7:00 a.m. until 7:00 p.m. on the same day. Only the duly qualified electors of the Town of Ocean Ridge, Florida, shall be permitted to vote on this Referendum question.

SECTION 8. The Ballot Title shall be as follows:

“OCEAN RIDGE CHARTER AMENDMENTS REGARDING PROCEDURES GOVERNING THE TOWN COMMISSION”

SECTION 9. The following question shall be placed on a ballot for consideration by the qualified electors of the Town of Ocean Ridge, Florida. The election ballot question shall read as follows:

SHALL OCEAN RIDGE AMEND ITS CHARTER TO MODIFY THE SELECTION OF

MAYOR AND VICE-MAYOR; TO MODIFY COMMISSION VACANCIES, FORFEITURE OF OFFICE, THE FILLING OF VACANCIES AND TO ADD A PROVISION ON SUSPENSION FROM OFFICE; TO INCREASE SPECIAL MEETING MINIMUM NOTICE REQUIREMENTS; AND TO PROVIDE THAT THREE AFFIRMATIVE VOTES, BY THE COMMISSION, ARE REQUIRED FOR ANY APPROVAL?

YES _____

NO _____

SECTION 10. The Town Clerk of the Town of Ocean Ridge, Florida, is hereby authorized and directed to advertise the Referendum Election in accordance with the Town Charter and Code of Ordinances, and any other applicable law.

SECTION 11. Codification. In the event these proposed amendments are approved by referendum, the amendments set forth in sections 2 through 4 shall become and be made a part of the Town Charter of the Town of Ocean Ridge, Florida. The Articles or Sections of these Charter amendments may be renumbered or re-lettered to accomplish such.

SECTION 12. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 13. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 14. Effective Date. This Ordinance shall take effect immediately upon adoption. The provisions of Sections 2 through 4 of this ordinance shall only be effective upon the affirmative vote of the Town electorate approving such measures.

FIRST READING this 1st day of October, 2018.

SECOND AND FINAL READING this 5th day of November, 2018.

Commissioner de Haseth offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner MaGruder and upon being put to a vote, the vote was as follows:

STEVE COZ, Mayor

Aye

DON MAGRUDER, Vice Mayor

Aye

PHILIP BESLER, Commissioner

Aye

JAMES A. BONFIGLIO, Commissioner

Aye

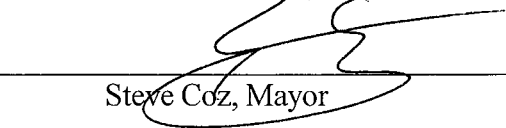
KRISTINE DE HASETH, Commissioner

Aye

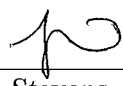
The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 5th day of November, 2018.

TOWN OF OCEAN RIDGE, FLORIDA

BY: _____


Steve Coz, Mayor

ATTEST: _____


Tracey L. Stevens, Town Clerk