

## ARTICLE II. - CITY COUNCIL

## Sec. 2.01. - Composition; eligibility; election; terms.

- (a) *Composition.* There shall be a city council consisting of five (5) council members elected by the qualified voters of the city elected at large. The city is hereby divided into five districts, designated as District One, District Two, District Three, District Four and District Five.

The boundaries of District One shall be identical with the territorial boundaries of the entire city. The boundaries of the remaining districts shall be subdivisions of the entire city, numbered two (2) to five (5) inclusive, and shall contain as nearly as possible equal population while maintaining, if possible, the integrity of precinct boundaries.

The Ocala City Council shall by ordinance redesignate the boundaries of each district after each decennial census conducted by the United States government. The Ocala City Council may in the intervening years readjust the boundaries of the above districts so as to keep them as nearly equal in proportion to population as possible; provided that changes made in the district boundaries shall be made only in even numbered years.

Whenever the boundaries of existing city council districts are changed, this shall cause an accurate description of the district boundaries, as changed, to be entered upon its minutes and a certified copy thereof to be published once each week for four (4) consecutive weeks in a newspaper published in the city.

- (b) *Eligibility.* Only the qualified voters of the city shall be qualified to hold the office of councilmember. Each candidate for city council shall be a resident qualified voter within the district from which the candidate seeks to be elected, and shall have been a resident of the City of Ocala for not less than one (1) year prior to his election to office.
- (c) *Election and terms.* The offices of the two (2) members of the existing city council, whose terms expire in December, 1987, shall be filled from candidates qualifying for election from Districts Two and Four and shall be elected at a general election to be held on the first Tuesday in November, 1987. The offices of the three (3) members of the existing city council whose terms expire in December, 1989, shall be filled from candidates qualifying for election from Districts One, Three and Five and shall be elected at a general election to be held on the first Tuesday in

November, 1989. Thereafter, and at the conclusion of the applicable four (4) year term of office, there shall be held a general election of council members on the third Tuesday in September of odd-numbered years for terms of four (4) years as provided by Article VIII hereof such that council members from Districts Two and Four will be subject to election at the end of their four (4) year terms and council members from Districts One, Three and Five will be subject to election at the end of their four (4) year terms in alternating odd numbered years. The terms of council members shall begin on the first Tuesday in December after their election.

- (d) *President of council; acting mayor; president pro tem.* The members of the city council at the first meeting in December of each year, after the installation of newly elected council members, if any, shall elect one of its members as president of the city council who shall hold such office for a term of not less than one year nor more than two (2) consecutive years. The president of the city council shall preside at all meetings of the council and in the absence, disqualification or disability of the mayor assume all the powers and duties of said office, but this shall in no way disqualify him from acting as president of such council during such time. The president of the city council shall sign all ordinances, resolutions, contracts, agreements and evidences of indebtedness as the act and deed of the city, subject to the authorization and approval of the city council, and it shall not be required that the mayor's signature appear thereon or the mayor's approval be given therefor, except where resolutions or proclamations are required to be made by the mayor by the terms of this act or any ordinance of said city, or except in the approval or veto of ordinances as provided in section 2.13(b) of this Act.

The city council of said city shall also elect from among its members, at the time of the election to the office of the president of the city council and for the same term of office, the president pro tem, who shall in the absence, disqualification or disability of the president assume all the duties and powers of such office. No person shall serve as president of the city council or as president pro tem who is not a qualified elected councilman, nor may such office extend beyond the elected term of such councilman.

(Laws of Fla., ch. 74-541, § 1; Ord. No. 1713, § 1, 11-21-84/11-5-85; Ord. No. 5312, § 1, 8-17-04; Ord. No. 2015-26, § 1, 4-21-15)

**Editor's note**— As the provisions of subsections (c) and (d) were amended by Laws of Fla., ch. 74-541, such provisions cannot be amended by the city without a referendum, subject, however, to the provisions of F.S. § 166.031(5). The Municipal Home Rule Powers Act only affected limitations on power contained in those charters or charter amendments enacted prior to Oct. 1, 1973. See Op. Atty. Gen. 075-223.

Sec. 2.02. - Compensation; expenses.

The council shall determine the monthly salary of the councilmen. In addition, councilmen shall receive their actual and necessary expenses in the actual performance of the duties of their offices. The salary of each councilman shall not exceed two hundred dollars (\$200.00) monthly, and the salary of the president of the council shall not be more than two hundred fifty dollars (\$250.00) monthly.

(Ord. No. 1024, § 1, 9-6-77/11-1-77)

**Editor's note**— As the provisions of § 2.02 were amended by Ord. No. 1024, adopted on Sept. 6, 1977, and approved at referendum on Nov. 1, 1977, such provisions cannot be amended by the city without a referendum, subject, however, to the provisions of F.S. § 166.031(5). The Municipal Home Rule Powers Act only affected limitations on power contained in those charters or charter amendments enacted prior to Oct. 1, 1973. See Op. Atty. Gen. 075-223.

Sec. 2.03. - General powers and duties.

All powers of the city shall be vested in the 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 city by law.

Sec. 2.04. - Prohibitions.

- (a) *Holding other office.* Except where authorized by law, no councilman shall hold any other city office or city employment during the term for which he was elected to the council, and no former councilman shall hold any compensated appointive city office or city employment until one year after the expiration of the term for which he was elected to the council.
- (b)

*Appointments and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the city manager or any of his subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

- (c) *Interference with administration.* Except for the purpose of inquiries and investigations under Section 2.09, the council or its members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor its members shall give orders to any such officer or employee, either publicly or privately.

**Editor's note**— The provisions of this section may have been converted into an ordinance by F.S. § 166.021. See Op. Atty. Gen. 074-25 and Op. Atty. Gen. 078-61. See Ops. Atty. Gen. 077-135, 078-31.

Sec. 2.05. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* [Deleted.]

**Editor's note**— The provisions of subsection (a) have assumed ordinance status by virtue of the Municipal Home Rule Powers Act (F.S. ch. 166) and their inclusion in the Code of Ordinances, City of Ocala, Florida. See Code § 2-73.

- (b) *Forfeiture of office.* [Deleted.]

**Editor's note**— The provisions of subsection (b) have assumed ordinance status by virtue of the Municipal Home Rule Powers Act (F.S. ch. 166) and their inclusion in the Code of Ordinances, City of Ocala, Florida. See Code § 2-74.

- (c) *Filling vacancies.* A vacancy in the council shall be filled at a special election for the remainder of the unexpired term; provided, if such vacancy occurs not more than one hundred twenty (120) days before the date of the next regular election, the city council may appoint a person having the qualifications of councilman to occupy such office for the remainder of the unexpired term. A special election required to fill a vacancy on the council for the remainder of an unexpired term shall be called by the mayor to be held not less than thirty (30) days or more than sixty (60) days from the day on which the vacancy shall have occurred. The proclamation of the mayor calling for the election shall be published at least one time in a newspaper

of general circulation in said city within ten (10) days after its adoption and not less than fifteen (15) days prior to the election. The mayor's proclamation shall be in such form as prescribed by ordinances of said city. Should the mayor fail to call such election, the city council shall by resolution call the election, and such resolution shall be published as provided for the mayor's proclamation. Such special election shall be otherwise conducted as provided by ordinances of said city.

**Editor's note**— A referendum is required to amend subsection (c). See Op. Atty. Gen. 075-158.

#### Sec. 2.06. - Judge of qualifications.

The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. Decisions made by the council under this section shall be subject to review by the courts.

**Editor's note**— The provisions of the second sentence of § 2.06 have assumed ordinance status by virtue of the Municipal Home Rule Powers Act (F.S. ch. 166) and their inclusion in the Code of Ordinances, City of Ocala, Florida. As the last sentence which appears above relates to both the first sentence (which cannot be amended without a referendum) and the second sentence, it has been retained in this section and included in the new Code with the second sentence. See Code § 2-74.

#### Sec. 2.07. - City clerk.

The council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall perform such other duties as are assigned to him by this charter or by the council.

**Editor's note**— The above constitutes the first sentence and the first four and last sixteen words of the third sentence of § 2.07. All other provisions (i.e., the second sentence and portions of the third sentence) have assumed ordinance status by virtue of the Municipal Home Rule Powers Act (F.S. ch. 166) and their inclusion in the Code of Ordinances, City of Ocala, Florida. See Code §§ 2-231, 2-232.

#### Sec. 2.08. - Chief of police; policemen.

The city council shall appoint a chief of police nominated by the mayor, whose powers and duties and term of office shall be such as may be prescribed by ordinance. He shall be responsible to the mayor and the mayor shall have the power to suspend such chief of police at any time by preferring charges in writing against such chief of police with the city clerk of said city. The city council of said city at its next regular meeting, or at a special meeting for such purpose called, shall consider said charges, and if the action of the mayor be confirmed by a majority of the city council, such chief of police shall thereby be removed from office. The city council shall have the authority by a majority vote of its members to prefer such charges against the chief of police. The charges shall be made by preliminary resolution filed with the city clerk and a copy served upon the chief of police. In such case where the mayor does not prefer the charges against the chief of police, the city council may, after hearing upon charges preferred by the council, by a four-fifths ( 4/5 ) vote of the members of the council suspend or remove the chief of police from office. The action of the council in suspending or removing the chief of police upon charges preferred by the mayor or the council shall not be subject to review by the courts. Except as to the requirement of the four-fifths ( 4/5 ) vote, the procedures for the removal of the chief of police shall be as prescribed in Section 2.19 of this article.

There shall be such policemen and support personnel as the council may provide for, who shall be nominated by the chief of police; their nomination shall be approved by the mayor. They shall be responsible to the chief of police and he may suspend or terminate the employment of any such policeman or support personnel upon approval by the mayor. The mayor shall give all orders and instructions in regard to the enforcement of the city ordinances referred to in Subsection 3.03(b) of the City Charter to the chief of police and all policemen and support personnel shall take their orders and instructions only from the chief of police.

(Ord. No. 2014-18, § 1, 3-4-14)

**Editor's note**— It appears that a referendum is required to amend § 2.08. See Ops. Atty. Gen. 077-135, 078-31; *Smith v. City of Pinellas Park*, 355 So. 2d 1255 (1976). See also Ops. Atty. Gen. 077-135, 078-31. But cf. Op. Atty. Gen. 079-21; the latter opinion seems inapplicable as in this section power is being divided between the mayor, council and manager.

#### Sec. 2.09. - Investigations.

The council may make investigations into the affairs of the city and the conduct of any city department, office or agency, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

(Ord. No. 2013-47, § 2, 7-2-13)

Sec. 2.10. - Independent audit.

**Editor's note**— The provisions of § 2.10 were either repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or converted into an ordinance by such act which has not been readopted. The provisions of § 2.10 are adequately covered by F.S. §§ 166.241, 218.33, which statutory sections require an annual audit in accordance with state standards.

Sec. 2.11. - Procedure.

- (a) *Meetings.* The 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 three (3) or more members and, whenever practicable, upon no less than twelve (12) hours' notice to each member. All meetings shall be public. (Ord. No. 1022, § 8, 9-6-77/11-1-77)

**Editor's note**— As the provisions of subsection (a) were amended by Ord. No. 1022, adopted on Sept. 6, 1977, and approved at referendum on Nov. 1, 1977, such provisions cannot be amended by the city without a referendum, subject, however, to the provisions of F.S. § 166.031(5). The Municipal Home Rule Powers Act only affected limitations on power contained in those charters or charter amendments enacted prior to Oct. 1, 1973. See Op. Atty. Gen. 075-223.

- (b) *Rules and journal.* The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- (c) *Voting.* Voting may be by voice vote, except that a roll call vote shall be required on appropriation of funds or any motion upon the call of any councilman. The ayes on each roll call vote shall be recorded in the journal. Three (3) members of the council 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 council. No action of the council, except as otherwise provided in the preceding sentence and in Section 2.05 shall be valid or binding unless adopted by the affirmative vote of a majority of the members present.

Sec. 2.12. - Reserved.

(Repealed by Ord. No. 2013-47, § 3, 7-2-13)

**Editor's note**— Ord. No. 2013-47, § 3, adopted July 2, 2013, repealed § 2.12, which provided action requiring an ordinance.

Sec. 2.13. - Ordinances in general.

(a) *Form.*

**Editor's note**— The provisions of subsection (a) assumed ordinance status by virtue of the Municipal Home Rule Powers Act (F.S. ch. 166) and their inclusion in the Code of Ordinances, City of Ocala, Florida. See Code § 2-75. The requirement that an ordinance be in writing is deleted as superseded by F.S. § 166.041(2).

(b) *Procedure.* An ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the city clerk shall distribute a copy to each councilmember, to the mayor, and to the city manager, and shall file a reasonable number of copies in the office of the city clerk and such other public places as the council may designate. Each new ordinance shall be introduced at one meeting of the city council, and at a subsequent meeting of the council, after notice has appeared in a newspaper of general circulation, the ordinance shall be adopted by sections, and finally adopted at the same meeting with only the reading of the title required. Provided, however, the city council may waive adoption by sections on second reading.

Ordinances which rezone private property or ordinances which deal with land use enacted pursuant to the provisions of the Local Government Comprehensive Planning Act shall be introduced, advertised, and adopted in accordance with the provisions of F.S. ch. 166, or any other law now or hereafter in force.

All ordinances shall be submitted to the mayor for his approval or disapproval as soon after their final passage as possible. It shall be the duty of the mayor to either approve said ordinance or to veto the same within ten (10) days after passage by the council, and to return such ordinance to the city council. In the event the mayor vetoes any ordinance, it shall be his duty to file his reason for vetoing such ordinance in writing with the city clerk at the time of the return of said ordinance. Any ordinance vetoed by the mayor may be passed over such veto by a four-fifths (4/5 ths) vote of the council. In the event the mayor does not return any ordinance within said time, the ordinance shall go into effect as if it had been approved by him.



- (c) Each ordinance shall become effective upon its approval by the mayor or upon becoming law without such approval in accordance with the procedure in subsection (b) herein or shall become effective upon the date specifically provided in the ordinance.

(Ord. No. 1022, § 9, 9-6-77/11-1-77)

**Editor's note**— As the provisions of subsections (b) and (c) were amended by Ord. No. 1022, adopted on Sept. 6, 1977, and approved at referendum on Nov. 1, 1977, such provisions cannot be amended by the city without a referendum, subject, however, to the provisions of F.S. § 166.031(5). The Municipal Home Rule Powers Act only affected limitations on power contained in those charters or charter amendments enacted prior to Oct. 1, 1973. See Op. Atty. Gen. 075-223.

#### Sec. 2.14. - Emergency ordinances.

To meet a public emergency affecting life, health, property, or the public peace, the council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money except as provided in subsection 6.07(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members shall be required for adoption. After its adoption the ordinance shall be posted as prescribed for other adopted ordinances. It shall become effective ten (10) days after passage or as otherwise provided therein. Every emergency ordinance, except one made pursuant to subsection 6.07(b), shall automatically stand repealed as of the sixty-first day following the date on which it was adopted; but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(Ord. No. 1022, § 10, 9-6-77/11-1-77)

**Editor's note**— As the provisions of § 2.14 were amended by Ord. No. 1022, adopted on Sept. 6, 1977, and approved at referendum on Nov. 1, 1977, such provisions cannot be amended by the city without a referendum, subject, however, to the provisions of F.S. § 166.031(5). The Municipal Home Rule Powers Act only affected limitations on power contained in those charters or charter amendments enacted prior to Oct. 1, 1973. See Op. Atty. Gen. 075-223. See also F.S. § 166.041.

Sec. 2.15. - Reserved.

(Repealed by Ord. No. 2013-47, § 4, 7-2-13)

**Editor's note**— Ord. No. 2013-47, § 4, adopted July 2, 2013, repealed § 2.15, which provided for codes of technical regulations.

Sec. 2.16. - Reserved.

(Repealed by Ord. No. 2013-47, § 5, 7-2-13)

**Editor's note**— Ord. No. 2013-47, § 5, adopted July 2, 2013, repealed § 2.16, which provided for authentication and recording; codification; printing.

Sec. 2.17. - Appointment of city officials.

All appointments of city officials made by the city council as authorized by this charter shall be made at the second meeting in October of even-numbered years and shall be for a term of two (2) years commencing the following November 1. The provisions of this section shall not apply to the appointment by the city council of members of boards and commissions.

(Ord. No. 1022, § 11, 9-6-77/11-1-77)

**Editor's note**— As the provisions of § 2.17 were amended by Ord. No. 1022, adopted on Sept. 6, 1977, and approved at referendum on Nov. 1, 1977, such provisions cannot be amended by the city without a referendum, subject, however, to the provisions of F.S. § 166.031(5). The Municipal Home Rule Powers Act only affected limitations on power contained in those charters or charter amendments enacted prior to Oct. 1, 1973. See Op. Atty. Gen. 075-223.

Sec. 2.18. - Vacancies in appointive offices.

The city council may fill any vacancies in positions of appointed officials for the unexpired term of the official.

**Editor's note**— The provisions of § 2.18 cannot be amended without a referendum. See Ops. Atty. Gen. 077-135, 078-31; *Smith v. City of Pinellas Park*, 355 So. 2d 1255 (1976). See also Ops. Atty. Gen. 077-135, 078-31. But cf. Op. Atty. Gen. 079-21; the latter opinion seems inapplicable as in the instant case power is being divided between the mayor, council and manager.

Sec. 2.19. - Removal of appointed officials.

**Editor's note**— The provisions of § 2.19 have assumed ordinance status by virtue of the Municipal Home Rule Powers Act (F.S. ch. 166) (see Op. Atty. Gen. 079-21), and their inclusion in the Code of Ordinances, City of Ocala, Florida. See Code § 2-76.

Sec. 2.20. - City public affairs officer.

The council may appoint an officer of the city who shall have the title of public affairs officer. The city public affairs officer shall perform such duties as are assigned to him by this Charter section or by the council. The public affairs officer shall serve as chief spokesman for the council and mayor concerning public affairs issues and information dissemination about the city. The city council shall establish the salary to be paid to the public affairs officer.

(Ord. No. 5051, § 1, 5-21-02; Ord. No. 2010-50, § 1, 6-15-10)