

ORDINANCE NO. 487

**AN ORDINANCE AMENDING THE CHARTER OF THE TOWN OF INDIAN RIVER SHORES TO PROVIDE CLARITY; AMENDING ARTICLE 2, RELATING TO MAYOR AND TOWN COUNCIL, SECTIONS 2-2, 2-4, AND 2-12, CLARIFYING ELECTION DATES AND PROCEDURES; AMENDING ARTICLE 3, RELATING TO OFFICERS AND EMPLOYEES GENERALLY, SECTION 3-2, ELIMINATING GENDER REFERENCES; AMENDING ARTICLE 5, RELATING TO FINANCIAL PROCEDURES, SECTIONS 5-2, 5-5, 5-7 AND 5-8, CHANGING RESPONSIBLE PARTY FROM MAYOR TO TOWN MANAGER, ELIMINATING UNNECESSARY LANGUAGE, PERMITTING TOWN TO PARTICIPATE IN EXISTING GOVERNMENTAL CONTRACTS; AND AMENDING ARTICLE 6, RELATING TO ELECTIONS, SECTIONS 6-3 AND 6-4, CLARIFYING AND REMOVING UNNECESSARY LANGUAGE; REQUIRING REFERENDUM ON MARCH 13, 2007 ELECTION; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the town council determines that certain areas of the Town Charter need clarification to reflect actual practice including the duties of the mayor and town manager; and

**WHEREAS**, for clarity purposes prior Charter amendments need to be incorporated into one document; and

**WHEREAS**, the town council determines it is in the best interest of the Town to modify and clarify the Charter by the provisions contained in this ordinance;

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA, HEREBY ORDAINS:**

Section 1: ARTICLE 2, SECTION 2-2 shall be amended to read as follows:

Sec. 2-2. Term of office.

The term of office for each town council member shall be four years and until a successor is duly elected and qualified. The regular annual election of the town council shall be on the second Tuesday in March in odd number years ~~commencing on the first Tuesday in February, 1981. The terms of council members shall be as follows:~~

~~Three council members shall be elected for four year terms beginning on February 1, 1981, and each four years thereafter.~~

~~Two council members shall be elected for two year terms beginning on February 1, 1981. Beginning on February 1, 1983, and each four years thereafter, two council members shall be elected for four year terms. In the election to be held on February 1, 1981, the three persons receiving the highest number of votes shall be elected for the three four year terms. The persons receiving the next two highest number of votes shall be elected to the two two year terms.~~

The terms of council members shall be staggered four-year terms, with two members elected at one election and three members elected at the next election. In the election of March 2007, and each four years thereafter, two members will be elected. In the election of March 2009, and each four years thereafter, three members will be elected.

Section 2: ARTICLE 2, SECTION 2-4 shall be amended to read as follows:

Sec. 2-4. Selection of mayor and vice-mayor.

~~At its first regular meeting f~~Following each election for the office of town council, the town council shall select from its members a mayor and vice-mayor. The town council shall designate a time and date for the selection which shall be no later than the next regular council meeting following the election. The mayor and vice-mayor shall serve for a term of two years from the date of the selection.

Section 3: ARTICLE 2, SECTION 2-12 shall be amended to read as follows:

Sec. 2-12. Boards, commissions, authorities, and agencies.

(a) The town council may create such boards, commissions, authorities, and agencies as it deems advisable. The powers and duties of such boards, commissions, authorities, and agencies shall be as prescribed by the town council.

(b) Members of the town council may serve as members of boards, commissions, authorities and agencies.

Section 4: ARTICLE 3, SECTION 3-2 shall be amended to read as follows:

Sec. 3-2. Town clerk.

There is hereby created the office of town clerk.

The town clerk shall be appointed by the town council and shall hold office at the pleasure of the town council. The compensation of the town clerk shall be determined by the town council.

The town clerk shall serve as the clerk of the town council and, as such, shall have all the powers conferred and duties imposed upon that office by this Charter. In addition to ~~his~~ the duties ~~as~~ of the clerk of the town council, the town clerk shall be the official custodian of the town seal and of all official records, documents, and papers of the Town and shall perform such other duties as are required of the town clerk by this Charter, state law, ordinances of the Town, or direction of the town council.

Section 5: ARTICLE 5, SECTION 5-2 shall be amended to read as follows:

Sec. 5-2. Budget.

(a) *Required.* No monies of the Town shall be disbursed except in pursuance of appropriations made by the town council.

(b) *Preparation.* Prior to August 1 of each year, the ~~mayor~~ town manager shall prepare and submit to the town council a proposed budget for the ensuing fiscal year. Such proposed budget shall contain a complete plan for all Town funds and financial activities for the ensuing fiscal year and shall include such details and be in such a form as required by this Charter, state law, and the town council. Such proposed budget shall show comparative figures of revenues and expenditures for the ensuing and current fiscal years, detailing the relationship of proposed expenditures to current expenditures in dollars and percentages, and thus showing any increase or decrease in the level of expenditures.

(c) *Message of* ~~mayor~~ town manager *to council.* When presenting the proposed budget to the town council, the ~~mayor~~ town manager shall present a message to the town council outlining proposed financial policies, describing the features of the budget, explaining major changes in financial policies, expenditures, and revenues from those in the budget for the current fiscal

year, summarizing the Town's current and overall financial position, and including such other material and information as the town council may require.

(d) *Public hearing.* Upon receipt of the proposed budget, the town council shall call a public hearing to consider the criticisms, recommendations, and suggestions of the citizens of the Town relative to such proposed budget. In calling such public hearing, the town council shall give at least one week's notice of the time, place, and purpose of such public hearing by publication once in a newspaper of general circulation within the Town, and by posting at the town hall. A copy of the proposed budget shall be made available for public inspection at the office of the town clerk for at least one week prior to the date on which the public hearing is scheduled.

(e) *Action by council.* After completion of the public hearing, the town council shall adopt the budget as submitted or after making such changes and amendments as it deems necessary for the proper and economical operation of town government. Final town council action on the budget for the ensuing fiscal year shall be completed by October 1.

(f) *Amendment after adoption.* The town council shall have the power to amend the budget at any time to utilize excess funds, to increase appropriations, to transfer funds, or for any other purpose.

(g) *Emergency expenditures.* The town council may authorize the ~~mayor~~ town manager to expend monies beyond those provided in the budget for emergency purchases to procure necessary supplies and services to handle emergency circumstances which require immediate action for the protection of the health, safety, or welfare of the Town or a sector thereof. The ~~mayor~~ town manager shall exercise such authority only in the manner and within the limits established by the town council and only if a special meeting of the town council is not possible. The ~~mayor~~ town manager shall report any such expenditure at the next regular meeting of the town council, whether it be a regular or special meeting.

Section 6: ARTICLE 5, SECTION 5-5 shall be amended to read as follows:

~~Sec. 5-5. Facsimile signatures~~

~~The use of mechanically applied facsimile signatures shall be limited to such purposes and subject to such limitations and restrictions as the town council may prescribe.~~

This section is intentionally left blank and is reserved for future use.

Section 7: ARTICLE 5, SECTION 5-7 of the Charter shall be amended to read as follows:

Sec. 5-7. Competitive bidding.

(a) *Required.* No purchase by or on behalf of the Town requiring the expenditure of \$5,000 or more shall be awarded, let, or made except through competitive bidding after the advertisement for bids in the form and manner prescribed in this Charter. No purchase or the quantity thereof shall be split for the purpose of avoiding the requirements of this section. ~~(Ord. 342, 8-28-86)~~

(b) *Publication of request for bids.* Published notice of each intended purchase shall appear in a newspaper of general circulation within the Town once each week for two consecutive weeks prior to the opening date of the bid. In addition to the publication requirements of this section, the town council may direct the ~~mayor~~ town manager to notify by United States mail, additional potential suppliers of such requests for bids whenever the town council determines that the publication requirement of this section is inadequate to produce sufficiently competitive bidding.

(c) *Contents of request for the submission of bids.* Each request for the submission of bids shall contain an acceptance clause granting the Town a minimum of 30 days in which to accept or reject the bid, during which time the tendered bid shall remain valid. The request for the submission of bids may contain a requirement that the bidder provide a performance bond in the full amount of the contract price and may further contain such other specifications and declarations as the town council shall determine necessary for the proper evaluation of the bidder's proposal and qualifications.

(d) *Award.* The town council shall award the contract to the lowest fully responsive and responsible bidder; provided, that the town council may award the contract to a bidder other than the lowest bidder should it find that the lowest bidder does not offer the reliability, quality of service, or product afforded by such other bidder. Where a bid other than the lowest bid is taken, the town council shall state the reasons upon which such award was made.

(e) *Rejection and resubmission for bids.* The town council may reject all submitted, bids and provide for the request of additional bids whenever it finds that the bids submitted are not responsive to the request for bids, that the bids are not responsible, or that the bid prices are unacceptable. Requests for such additional bids shall comply with the provisions of this section.

(f) *Purchases on failure to receive bids.* Where no bids are received and the council determines that additional requests for bids are unlikely to produce responses, the town council may authorize the purchase, at the best obtainable price, of such products or services as are available on the open market.

(g) *Professional services.* Contracts for professional services, including but not limited to architects, attorneys, accountants, engineers, and surveyors, may, upon approval by the town council, be entered into without competitive bidding. The town council shall review the qualifications, work history, and other relevant data before contracts for such services are entered.

(h) Other governmental contracts. The Town has the authority as granted by F.S. 287 to utilize and participate in existing contracts by governmental entities without receiving a competitive bid.

Section 8: ARTICLE 5, SECTION 5-8 of the Charter shall be amended to read as follows:

Sec. 5-8. Audits.

Upon the direction of the town council, the finances of the Town shall be examined and audited at least once each year in accordance with the laws of the State of Florida. For this purpose the town council shall employ an accountant not connected with the town government at the end of each fiscal year, or more frequently if the town council so desires. Such financial audit shall be a certified audit with no exceptions. All reports and recommendations of the auditor shall be directed to the town council. The ~~mayor~~ town manager and ~~his~~ the subordinate officers and employees shall cooperate fully with the auditor and shall make all accounts, books, vouchers, records, reports, and other data available to ~~him~~ the auditor.

Section 9: ARTICLE 6, SECTION 6-3 of the Charter shall be amended to read as follows:

Sec. 6-3. Conduct generally

(a) Except as otherwise specifically provided by this Charter, all elections held by the Town shall be conducted in accordance with all applicable provisions of the Florida Election Code.

~~(b) Regular elections for the office of town council member shall be held on the first Tuesday in February commencing on the first Tuesday in February, 1981.~~ Each candidate for town council member shall run town-wide. The candidates receiving a plurality of the votes cast for that particular office shall be elected.

(c) Names shall be placed on the ballot in accordance with the order determined by drawing lots.

Section 10: ARTICLE 6, SECTION 6-4 of the Charter shall be amended to read as follows:

Sec. 6-4. Referendum requirement regarding State Road A1A.

The town council shall not approve or undertake any project to add one or more additional driving lanes to State Road A1A without first submitting the project to the electors of the Town for approval by a majority of those voting at a general election or at a special election called for such purpose. If the project is not approved by a majority of those voting, then the town council shall not proceed to adopt or otherwise approve such project.

~~The election under the terms of this ordinance shall be the March 10, 1992, presidential preferential primary election. (Ord. No. 404, § 1, 1-9-92)~~

Section 11: This proposed Charter amendment shall be submitted to a referendum of voters of the Town of Indian River Shores in the General Election scheduled for March 13, 2007.

Section 12: All Ordinances or parts of Ordinances in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 13: The Charter provision shall be effective if approved by the voters at the March 13, 2007 election.

\* \* \* \* \*

First Reading passed December 14, 2006

Published in Press Journal January 15, 2007

I HEREBY CERTIFY that the foregoing Ordinance was finally passed by the Town Council of the Town of Indian River Shores, Florida, on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Thomas W. Cadden, Mayor

ATTEST: (SEAL)

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Laura Aldrich, Town Clerk