

**ORDINANCE NO. 640**

**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 IV “ADMINISTRATIVE”, SECTION 4.01 “TOWN MANAGER”, TO CLARIFY THAT THE TOWN MANAGER IS NOT REQUIRED TO BE A RESIDENT OF THE TOWN; AMENDING SECTION 4.02 “APPOINTMENT; REMOVAL; COMPENSATION”, TO PROVIDE THAT THE AFFIRMATIVE VOTE OF A MAJORITY OF THE TOWN COMMISSION IS REQUIRED; AMENDING SECTION 4.03 “ACTING TOWN MANAGER”, TO MODIFY THE DESIGNATION PROCESS FOR AN ACTING TOWN MANAGER; AMENDING SECTION 4.04 “POWERS AND DUTIES OF THE TOWN MANAGER”, TO PROVIDE THAT THE TOWN MANAGER HAS THE AUTHORITY TO HIRE AND REMOVE OR SUSPEND ALL EMPLOYEES WITHOUT CONFIRMATION OR APPEAL TO THE COMMISSION, EXCEPT APPROVAL MUST BE OBTAINED FROM THE COMMISSION PRIOR TO TERMINATING THE POLICE CHIEF, AND TO REMOVE THE PROCESS THAT REQUIRES A HEARING TO BE HELD BY THE TOWN MANAGER WITHIN 72 HOURS OF THE SUSPENSION OF A POLICE DEPARTMENT EMPLOYEE; 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 IV "Administrative", Section 4.01 "Town Manager", is amended to read as follows:

**Section 4.01. - Town Manager.**

There shall be a Town Manager who shall be the chief administrative officer of the Town. He/she shall be responsible to the Commission for the administration of all town affairs placed in his/her charge by or under this Charter. The Town Manager shall not be required to be a resident or property owner of the Town.

**SECTION 3 – Amendment:** Town Charter, Article IV "Administrative", Section 4.02 "Appointment; removal; compensation", is amended to read as follows:

**Section 4.02. - Appointment; removal; compensation.**

- (a) *Appointment.* The Commission shall appoint a Town Manager for an indefinite term by a majority vote of all the Commission ~~members~~.
- (b) *Removal.* The Commission may remove the Manager by a majority vote of all the Commission ~~members~~.
- (c) *Compensation.* The compensation of the Manager shall be fixed by a majority vote of all the Commission.

**SECTION 4 – Amendment:** Town Charter, Article IV “Administrative”, Section 4.03 “Acting Town Manager”, is amended to read as follows:

**Section 4.03. - Acting Town Manager.**

~~By letter filed with the Commission, t~~ The Manager shall designate, in writing, subject to approval of the Commission, a qualified town administrative officer to exercise the powers and perform the duties of manager during his/her temporary absence or disability. During such absence or disability, the Commission may revoke such designation at any time and appoint another officer of the Town to serve until the Manager shall return or his/her disability shall cease.

**SECTION 5 – Amendment:** Town Charter, Article IV “Administrative”, Section 4.04 “Powers and duties of the Town Manager”, is amended to read as follows:

**Section 4.04. - Powers and duties of the Town Manager.**

The Town Manager shall:

- (a) Appoint, ~~subject to confirmation by the Commission,~~ and when he/she deems it necessary for the good of the Town, suspend or remove, ~~subject to review by the Commission,~~ any or all Town employees and appointive administrative officers provided for by or under this Charter, except approval must be obtained from the Commission prior to terminating the Police Chief, and except as otherwise provided by law, ~~this Charter or personnel rules adopted pursuant to this Charter.~~ The Town Manager shall authorize and delegate any administrative department head to exercise these powers with respect to subordinates in that department head's department. ~~The department heads shall be responsible to the Town Manager for the discipline and efficiency of their departments.~~
- (b) Direct and supervise the administration of all departments, offices and agencies of the Town, except as otherwise provided by this Charter ~~of {or}~~ or by law.

~~The Chief of Police shall be responsible to the Town Manager for the recommendation to hire, or discharge all employees within the Police Department.~~

~~The Chief of Police may peremptorily suspend, with pay, any subordinate for misconduct or failure to perform the duties of office, and shall report same, in writing, to the Town Manager within twenty-four (24) hours, together with a recommendation concerning any further proposed disciplinary action.~~

~~Within seventy two (72) hours of a suspension, the Town Manager shall conduct a hearing concerning the suspension, and any recommendation made by the Chief of Police concerning other disciplinary action. The Chief of Police and the affected employee may present and confront witnesses, and other evidence. For this purpose, the Town Manager may compel the attendance and sworn testimony of employees. The conduct of this hearing shall be informal and shall not require conformance to the Rules of Evidence or~~

~~Rules of Civil or Criminal Procedure, as approved by the Florida Supreme Court. However, fundamental due process shall be observed. Within twenty-four (24) hours of the hearing, the Town Manager shall render a written decision upholding, reversing or modifying the recommendation of the Chief of Police, and citing the reasons therefor. The Town Manager shall have the authority and shall be responsible to discharge or otherwise discipline employees affected herein. Said written decision shall be filed with the Town Clerk and shall be sent by Certified Mail to the affected employee. This decision shall be appealable to the Town Commission, by the filing of a written request therefor within ten (10) days of the filing of a decision with the Town Clerk.~~

~~The Town Commission shall hear the appeal of the affected employee at its next regular Commission meeting or at a special meeting called for that purpose, prior to the next regular Commission meeting. The decision of the Town Commission shall be final.~~

- (c) Attend all Commission meetings and shall have the right to take part in discussion but may not vote.
- (d) See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by him/her or by officers subject to his/her direction and supervision, are faithfully executed.
- (e) Prepare and submit the annual budget, together with the budget message, and capital program to the Commission in a form provided by ordinance.
- (f) Submit to the Commission 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 Commission may require concerning the operations of Town departments, officers and agencies subject to his/her direction and supervision.
- (h) Keep the Commission fully advised as to the financial condition and future needs of the Town and make such recommendations to the Commission concerning the affairs of the Town as he/she deems desirable.
- (i) Negotiate and sign contracts, documents, instruments and papers on behalf of the Town pursuant to the provisions of appropriations approved policies, ordinances; or as may be specifically ~~directed~~ authorized by the Town Commission.
- (j) Perform such other duties as are specified in this Charter or may be required by the Commission.

**SECTION 6.** 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 5 shall be adopted.

**SECTION 7.** A Referendum Election shall be held in the Town of Ocean Ridge, Florida, on the 12<sup>th</sup> 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 5 of this Ordinance.

**SECTION 8.** 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 in this Referendum question.

**SECTION 9.** The Ballot Title shall be as follows:

“OCEAN RIDGE CHARTER AMENDMENTS TO ADDRESS THE TOWN MANAGER’S POWERS AND DUTIES”

**SECTION 10.** 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 CLARIFY TOWN MANAGERS ARE NOT REQUIRED TO BE RESIDENTS; MODIFY THE VOTES REQUIRED TO APPOINT, REMOVE OR COMPENSATE TOWN MANAGERS; PROVIDE THE TOWN MANAGER WITH AUTHORITY TO HIRE AND REMOVE EMPLOYEES, WITHOUT CONFIRMATION OR APPEAL BY OR TO THE COMMISSION, BUT REQUIRING COMMISSION APPROVAL FOR TERMINATION OF THE POLICE CHIEF, AND DELETE THE REQUIREMENT THAT A SUSPENDED POLICE EMPLOYEE IS ENTITLED TO A TOWN MANAGER HEARING?

YES \_\_\_\_\_

NO \_\_\_\_\_

**SECTION 11.** 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 12. Codification.** In the event these proposed amendments are approved by referendum, the amendments set forth in sections 2 through 5 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 13. 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 14. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 15. Effective Date.** This Ordinance shall take effect immediately upon adoption. The provisions of Sections 2 through 5 of this ordinance shall only be effective upon the affirmative vote of the Town electorate approving such measures.

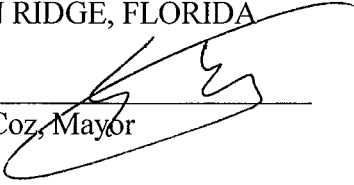
FIRST READING this 18<sup>th</sup> day of October, 2018.

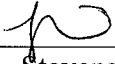
SECOND AND FINAL READING this 5<sup>th</sup> day of November, 2018.

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

STEVE COZ, Mayor	<u>Aye</u>
DON MAGRUDER, Vice Mayor	<u>Aye</u>
PHILIP BESLER, Commissioner	<u>Aye</u>
JAMES A. BONFIGLIO, Commissioner	<u>Aye</u>
KRISTINE DE HASETH, Commissioner	<u>Aye</u>

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

TOWN OF OCEAN RIDGE, FLORIDA  
BY:   
Steve Coz, Mayor

ATTEST:   
Tracey L. Stevens, Town Clerk