

ORDINANCE NO. O-21-09

AN ORDINANCE OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, SCHEDULING AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2021, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS OF THE CITY OF SEBASTIAN, THE QUESTION OF WHETHER OR NOT TO AMEND SECTION 2.08 (A) VACANCIES OF THE CITY CHARTER TO ADD SUSPENSION; ADD 2.08 (C) SUSPENSION FROM OFFICE TO INCLUDE THE SUSPENSION OF A COUNCIL MEMBER IF ARRESTED FOR A FELONY OR MISDEMEANOR RELATED TO THE DUTIES OF OFFICE; ADD 2.08 (D) SPECIAL HEARING TO INCLUDE WHEN CITY COUNCIL WILL HOLD A SPECIAL HEARING TO REMOVE OR SUSPEND A COUNCIL MEMBER OR MAYOR; ADD TO SECTION 2.08 (E) (2) AND (3) FILLING VACANCIES THAT CITY COUNCIL CAN REVOKE AND RESTORE SUSPENDED COUNCIL MEMBER OR MAYOR WHO IS ACQUITTED OR FOUND NOT GUILTY; CHANGE SECTION (D) TO (F); PROVIDING BALLOT LANGUAGE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 166.031 of Florida Statutes provides that the governing body of a municipality may by ordinance submit to the electors of said municipality a proposed amendment to all or parts of its City Charter; and

WHEREAS, in accordance with Section 5.03 of the City Charter, the Charter Review Committee has met, held public hearings, and recommended to the City Council certain revisions to the Charter; and

WHEREAS, the City Council wishes to call an election in the City of Sebastian on Tuesday, November 2, 2021, for the purpose of submitting to the electors of the City of Sebastian the question stated herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEBASTIAN, FLORIDA, that:

Section 1. ELECTION. A Citywide election is hereby called and scheduled for Tuesday, November 2, 2021 in the City of Sebastian, Florida, for the purpose of submitting to the qualified electors of the City of Sebastian the proposed amendment to the City Charter in the form attached hereto and made a part hereof.

Section 2. BALLOT. The purpose of this election shall be to present a referendum issue to the electors of the City of Sebastian of whether or not to adopt revisions to the City Charter. The ballot shall be substantially in the following form:

**CITY OF SEBASTIAN, FLORIDA
CHARTER AMENDMENT
Ballot Question #4**

PROVIDE FOR SUSPENSION, A SPECIAL HEARING AND A PROVISION TO RESTORE A COUNCIL MEMBER

Shall Sections 2.08 (a), (c), (d) (e) and (f) be amended, as provided in Ordinance O-21-09, to include the suspension of a council member if he or she is arrested for a felony or misdemeanor related to the duties of office as determined at a special hearing and to revoke and restore the suspension upon acquittal or found not guilty?

_____ Yes for Approval

_____ No for Rejection

Section 3. ELECTION RESULTS. The result of such election shall be determined by a majority of the qualified electors of the City of Sebastian voting on the proposal.

Section 4. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption by the City Council.

The foregoing Ordinance was moved for adoption by Councilmember Jones. The motion was seconded by Councilmember McPartlan and, upon being put to a vote, the vote was as follows:

Mayor Ed Dodd	<u>aye</u>
Vice Mayor Jim Hill	<u>aye</u>
Councilmember Fred Jones	<u>aye</u>
Councilmember Chris Nunn	<u>aye</u>
Councilmember Bob McPartlan	<u>aye</u>

The Mayor thereupon declared this Ordinance duly passed and adopted this 23rd day of June, 2021.

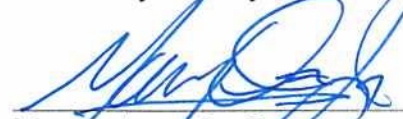
CITY OF SEBASTIAN, FLORIDA

By: 
Mayor Ed Dodd

ATTEST:



Jeanette Williams, MMC
City Clerk

Approved as to form and legality for reliance by the City of Sebastian only:


Manny Anon, Jr., Esq.
City Attorney



I HEREBY CERTIFY that notice of public hearing on this Ordinance was published in the TC Palm Press Journal as required by State Statute, that one public hearing on the Ordinance was held on the 23 day of June, 2021, and that following said public hearing this Ordinance was passed by City Council for placement on the November 2, 2021 ballot.


Jeanette Williams, MMC
City Clerk

**ATTACHMENT TO ORDINANCE O-21-09
PROPOSED CHARTER AMENDMENT LANGUAGE**

Section 2.08 Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.* The office of council member or mayor shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture/suspension of his/her office.

(b) *Forfeiture of office.* A Council member or the mayor shall forfeit his/her office if he/she:

- (1) Lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law;
- (2) Violates any express prohibition of this Charter;
- (3) Is convicted of a crime involving moral turpitude; or
- (4) Fails to attend three (3) consecutive regular meetings of the city council without being excused by the city council.

(c) Suspension from office. A Council Member or the Mayor may be suspended from his/her office if he/she is arrested for a felony or for a misdemeanor related to the duties of office.

(d) Special Hearing. The City Council, with the advice of the City Attorney, will hold a Special Hearing to consider the vote to remove or suspend a Council Member or Mayor if in violation of Sections (b) or (c) above.

~~(e)~~ (e) Filling vacancies. Any vacancy in the office of council member shall be filled in accordance with the provisions of this subsection:

- (1) If there is a scheduled citywide election within six months of the occurrence of the vacancy, the remaining members of the city council may either (A) permit the vacancy to be filled at that election, or (B) appoint a replacement.
- (2) If there is not scheduled citywide election within six months of the occurrence of the vacancy, the remaining members of the city council shall appoint a replacement within 45 days.

In the event the city council fills a vacancy by appointment, the person chosen to fill the office shall at the time of appointment meet the qualifications for a member of the city council. An appointed city council member shall serve only until the next citywide election or until city council revokes the suspension and restores the council member or mayor to office in accordance with Section 3 below. If the vacancy has occurred in the term of a city council member that extends beyond the next citywide election, the remainder of the unexpired term shall be filled at the election, and the candidate shall run specifically for that seat on the city council.

(3) If the council member or mayor is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information by reason of which he/she was suspended, under section (b)-(d) then the city council shall forthwith revoke the suspension and restore the council member or mayor to office. However, any person who pleads guilty or nolo contendere or is found guilty shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication.

~~(d)~~ (f) Filling vacancies in candidacy. In the event that following the close of the official qualifying period set out in Charter Section 4.02(b), the number of legally qualified candidates is fewer than the number of seats open for election, the new city council shall fill the vacancy in office in the same manner described above in paragraph (e) ~~(e)~~ of this section.