

ORDINANCE NO. 1109

AN ORDINANCE OF THE CITY OF LYNN HAVEN, FLORIDA, PROPOSING AN AMENDED CHARTER; MAKING THE CHARTER GENDER-NUETRAL; REMOVING OBSOLETE AND OUTDATED LANGUAGE; UPDATING TERMS OF OFFICE FOR ELECTED OFFICIALS AND REMOVING SPECIFIC REFERENCE TO TRANSITION DATES; AMENDING THE PROCESS OF FILLING VACANCIES ON THE COMMISSION; CLARIFYING THE APPOINTMENT OF DEPARTMENT HEADS BY THE CITY MANAGER; REMOVING THE DESIGNATION OF A CITY TREASURER AND PROVIDING THAT SUCH DUTIES SHALL BE PERFORMED BY THE MAYOR; PROVIDING THAT THE CANVASSING BOARD SHALL REPORT TO THE COMMISSION CONSITENT WITH CURRENT PRACTICE; DIRECTING THE SUPERVISOR OF ELECTIONS PLACE A REFERENDUM ON THE BALLOT OF THE NEXT GENERAL ELECTION; PROVIDING BALLOT LANGUAGE; PROVIDING FOR NOTICE OF REFERENDUM IN ACCORDANCE WITH LAW; PROVIDING FOR CODIFICATION UPON PASSAGE AT REFERENDUM; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Lynn Haven has determined and does hereby find that there is a need to amend and update its City Charter;

WHEREAS, the City Commission has held meetings to discuss and receive public comment on proposed revisions and updates to the City Charter;

WHEREAS, Section 166.031, Florida Statutes, states that municipal charter amendments require approval at referendum by a majority of the City's electors; and

WHEREAS, the City Commission of the City of Lynn Haven has determined and does hereby find that it is in the best interest of the City of Lynn Haven and its citizens to submit an amended Charter to the electors of the City for their consideration and approval before becoming effective;

NOW THEREFORE, Be It Enacted by the People of the City of Lynn Haven, Florida:

SECTION 1. The City of Lynn Haven calls for the holding of a referendum of the electors of the City of Lynn Haven on April 20, 2021, to consider and vote for or against the approval of

the proposed amended City Charter as approved by the City Commission on February 9, 2021, attached hereto and incorporated herein as **Exhibit A**.

SECTION 2. The Supervisor of Elections of Bay County, Florida, is hereby appointed as the election officer for the election to be held on April 20, 2021, by ballot in accordance with Florida Statutes. The City of Lynn Haven shall bear all related costs of said ballot.

SECTION 3. The language to appear on the ballot of the referendum on the proposed amended City Charter shall be:

QUESTION

**CITY OF LYNN HAVEN, FLORIDA
CHARTER AMENDMENT QUESTION**

Shall the City of Lynn Haven amend and update its current Charter by:

- Providing for gender-neutrality throughout the Charter;
- Removing obsolete language;
- Updating terms of office and removing reference to transition dates;
- Amending provisions for filling the vacancy of a Commissioner;
- Clarifying the appointment of department heads by the City Manager;
- Removing the designation of a City Treasurer;
- Providing that the canvassing board report to the Commission; and
- Other minor administrative revisions as described in Ordinance No. 1109?

YES _____ for Approval

NO _____ for Rejection

SECTION 4. The appropriate officials shall cause to be published in a newspaper of general circulation of the City the notices of the referendum required by Florida law.

SECTION 5. It is declared to be the intent of the City Commission that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a 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 hereof.

SECTION 6. Any Ordinance or part thereof in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 7. This Ordinance shall take effect immediately upon passage, but any amendment to the City Charter proposed by this Ordinance shall become effective immediately upon approval of the majority of the electors of the City voting in the next general election or special election called for such purpose; and if the electors shall not approve any amendment proposed by this Ordinance at such referendum, then the proposal not approved shall be void and of no force and effect.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Lynn Haven, Florida, this 9th day of February, 2021.

CITY OF LYNN HAVEN, FLORIDA



Dan Russell, Mayor Pro Tem

ATTEST:



Vickie Gainer, City Manager-Clerk

EXHIBIT A

LYNN HAVEN CHARTER

ARTICLE I. - IN GENERAL

Sec. 1. - Existing municipality abolished.

The present municipal government existing under the name of the City of Lynn Haven, Florida be and the same is, hereby abolished.

Sec. 2. - Title to property reserved to new municipality.

The title, rights, and ownership of property, collected and uncollected taxes, dues, claims, judgments, moneys, decrees, and choses in action, hitherto held or owned by the City of Lynn Haven, under its present or any former charter, shall pass to, and be vested in the municipal corporation organized by and under this act to succeed the municipality abolished.

Sec. 3. - Contracts remain binding.

No debt, obligation, or contract of the said City of Lynn Haven, Florida, including bonds and debentures heretofore issued, shall be impaired or avoided by this act, but such debts, obligations, contracts, bonds, and debentures shall pass to and be binding upon the new municipality which is hereby organized and created.

Sec. 4. - New municipality created.

The inhabitants of the City of Lynn Haven, Florida, as its limits are hereinafter hereby established, or as such limits may be hereafter later established, shall be and continue to be a body politic and corporate to be known and designated as the "City of Lynn Haven," and as such shall have perpetual succession, may have and use a common seal which it may change at pleasure, may contract and be contracted with, may sue and be sued, and may plead and be impleaded in all of the courts of this State.

Sec. 5. - Boundaries.

The corporate limits of the City of Lynn Haven in Bay County, Florida, be, and the same are hereby fixed, defined and established so as to include the following lands and territory in said County of Bay in the State of Florida, to-wit:

[The boundary description of the city is on file in the city manager-clerk's office.]

The aforesaid territorial limits may be changed, enlarged, or contracted in the manner provided by the general law. The jurisdiction of the City of Lynn Haven shall extend over all persons and property, franchises and privileges located or coming within said limits, and over and upon any property the city may own or possess for municipal purposes outside of said limits.

Sec. 6. - Powers vested in commission; designating manner of exercise; abandoned property; payment of ad valorem taxes.

All powers of the city except as otherwise provided by this Charter or by the Constitution of the State, are hereby vested in the city commission, and except as otherwise provided by this Charter or by the Constitution of the State, the city commission may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised.

Sec. 6A. - [Reserved.]

Sec. 7. - Same—Generally.

The City of Lynn Haven hereby created, established and organized, shall have full power and authority to acquire, take, hold and control property real, personal and mixed, both within and without its corporate limits for the use, benefit, welfare and best interest of said municipality, by purchase, lease, grant, gift, devise, condemnation or otherwise, and to sell, lease or otherwise dispose of such property for the benefits of said municipality to the same extent that a natural person might or could do; to issue and sell bonds, debentures and certificates of indebtedness or other obligations, upon its property both within and without its corporate limits, or in the earnings thereof, or both, for any lawful municipal purpose.

Sec. 8. - Same—Police power; general penalty.

The City Commission shall have power to pass all such ordinances and laws, not inconsistent with the Constitution and laws of the United States and of this State, as may be expedient and necessary for the preservation of the public peace and order.

Sec. 9. - General laws to apply.

All general laws of the State applicable to municipal corporations, now or which hereafter be are enacted, and which are not in conflict with the provisions of this Charter or with the ordinances and resolutions hereafter enacted by the City Commission shall be applicable to this City; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the City Commission to enact any ordinance or resolution not in conflict with the Constitution of the State or with the express provisions of this Charter.

Sec. 9A. - [Reserved.]

ARTICLE II. - CITY COMMISSION

Sec. 10. - Form of government.

The form of Government of the City of Lynn Haven provided for under this act [Laws of Fla. (1951), ch. 27685] shall be known as the "Commission-Manager Plan." The City Commission shall constitute the governing body with the powers as hereinafter provided to pass ordinances, adopt resolutions, and appoint a chief administrative office to be known as the "City Manager."

Sec. 11. - Creation; election of members; compensation.

A City Commission is hereby created to consist of a Mayor-Commissioner and four commissioners who shall be qualified as hereinafter prescribed and whose term of office shall begin immediately following the canvass of and certification of election returns as provided herein. Elections shall be held on the Tuesday immediately following the third Monday in April with any necessary run-off election to be held the Tuesday immediately following the third Monday in May. The City shall hold elections for the Mayor-Commissioner and commissioners every year ending in an odd number after the election of 2009. ~~The Mayor-Commissioner and commissioner seats one and two shall be elected every four years starting with the election of 2011. Commissioner seats three and four shall be elected every four years starting with the election of 2009.~~ The term of Mayor-Commissioner and four commissions shall be four years. The Mayor-Commissioner and the commissioners shall be elected at large in the City. The incumbent shall hold office until a successor is elected and qualified as herein provided. The Mayor-Commissioner and the commissioners shall receive such compensation as the City Commission may fix and designate by ordinance, which ordinance must first be approved by referendum.

Sec. 12. - Qualifications of members; prohibited interest in city contracts; prohibiting former members from employment.

Members of the Commission shall be qualified electors and residents of said City. Officers and employees of the City shall not be interested in the profits or emoluments of any contract, work or service for the municipality, and any such contract in which any member is, or may become interested, shall be declared void by the Commission. Members of the Commission shall not become employed by the city for a period of not less than two years after leaving office.

Sec. 13. - [Reserved.]

Sec. 14. - Judge of own elections; felony convictions.

The Commission shall be the judge of the election and qualification of its own members subject to review by the courts. The Commission shall serve as the Canvassing Board. Any member of the Commission who shall be convicted of felony while in office shall ~~thereby forfeit~~ their his-office.

Sec. 15. - Vacancies.

Any vacancy in the Commission shall be filled ~~until the next regular municipal election~~ by vote of the remaining members of the Commission; provided that if such vacancy is not filled within ~~ten~~ sixty days after it shall have occurred, such vacancy shall be placed on the ballot by special election at the next regular municipal election date appointment to fill such vacancy shall be made by the Governor of the State of Florida and provided further, that vacancies resulting from a recall election shall be filled in the manner hereinafter prescribed. The Mayor-Commissioner or Commissioner appointed or elected under this section shall fill the seat and remaining term of the vacant position.

Sec. 16. - General law governing city councils extended to commissioners.

Any right or authority given or permitted by the Constitution and laws of the State of Florida to City Councils not inconsistent with the provisions of this Act shall be given, permitted and extended to the City Commissioners of the City of Lynn Haven.

Sec. 17. - Mayor—Construed.

Whenever the term Mayor is used in this Charter, it is understood to refer to the Mayor-Commissioner.

Sec. 18. - Same—Functions and duties.

The Mayor shall preside at all meetings of the Commission and perform such other duties consistent with his the office as may be directed ~~imposed upon him~~ by the Commission, and he The Mayor shall have a voice and a vote in the proceedings of the Commission, but no veto power. He The Mayor shall use the title of Mayor in any case in which the execution of legal instruments in writing, or other necessity arising from the general laws of the State, so requires. He The Mayor shall be recognized as the official head of the City by the Courts for the purpose of serving civil processes; by the government in the exercise of military law, and for all ceremonial purposes, and shall countersign all checks and vouchers prepared by the City Manager. He The Mayor may take command of the police and fire departments and govern the city by proclamation during the times of grave public danger or emergency, and he shall himself be the judge of what constitutes such danger or emergency. The powers and duties of the Mayor shall be such as are conferred ~~upon him~~ by this Charter and by the City Commission in pursuance of the provisions of this Charter, and no others. In the absence or disability of the Mayor the other members of the City Commission shall select one of their number to perform his the Mayor's duties.

Sec. 19. - Advisory boards.

The City Commission may at any time appoint an Advisory Board or Boards, composed of ~~men and women who are~~ residents of the City of Lynn Haven and who are not disenfranchised by law. These people shall act in an advisory capacity to the City Commission or City Manager with respect to the

management of City property or the exercise of any public function. An individual shall only serve on one standing Board at a time. Service by an individual on a standing Board, except the Planning Commission, is limited to six (6) consecutive years. An individual on the Planning Commission shall not serve more than eight (8) consecutive years.

ARTICLE III. - OFFICERS AND EMPLOYEES⁽²⁾

Sec. 20. - Incumbents holding office.

All officers heretofore elected or appointed and holding office under the said municipality shall continue to hold their respective offices and to discharge the duties thereof until their successors are elected and confirmed under the provisions of this act [Laws of Fla. (1951), ch. 27685]; provided, that if no such successors are clearly provided for in this act [Laws of Fla. (1951), ch. 27685], then such officers shall hold office and discharge their duties only during the pleasure of the City Commission herein created; and all existing ordinances of the said municipality, not in conflict with the provisions of this act [Laws of Fla. (1951), ch. 27685], shall continue in effect and unimpaired until repealed, amended or modified by the municipality which is hereby organized and created.

Sec. 21. - Officers and departments enumerated.

Officers and departments of the City of Lynn Haven (in addition to the City Manager) shall consist of a City Attorney, Police Chief, Fire Chief, City Clerk, Public Works, Finance Director and those departments as established by ordinance. The heads of each and every department shall be appointed by the City Manager, ~~with the advice and consent of a majority of the Commission, or, upon his failure to do so, the Mayor-Commissioner may make such appointments if it is deemed necessary or expedient by the majority of the City Commission, and in either event, such appointment shall be made with the advice and consent of the majority of the City Commission.~~ Nothing herein shall be construed to prevent the City Manager from acting as head of any department, upon such recommendation his being so accepted by the majority of the City Commission.

Sec. 22. - Compensation.

The Commission shall fix by ordinance, the compensation of all City employees and members of boards. The compensation so fixed, shall be uniform for like services in each grade of the City service as the same shall be graded or classified by the City Manager, or the City Commission.

Sec. 23. - Civil service system.

The City Commission of Lynn Haven, Florida may, at its discretion, institute a civil service system for hiring and discharging its employees.

Sec. 24. - City Manager—Appointment; qualifications; substitute.

The City Commission shall appoint a City Manager who shall be the administrative head of the municipal government under the direction and supervision of the City Commission and shall hold office at the pleasure of the City Commission. ~~He~~The City Manager shall be chosen solely on the basis of his the City Manager's executive and administrative qualifications, without regard to his political belief, ~~and he~~ The City Manager need not be a resident of the City or State at the time of his appointment, but ~~during his tenure of office he shall reside in the City.~~ while serving as City Manager. During the absence or disability of the City Manager, the City Commission may designate some properly qualified person to temporarily execute the functions of the office.

Sec. 25. - Same—Removal.

The City Manager shall only be removed by the City Commission.

Sec. 26. - Same—Powers and duties.

The City Manager shall be responsible to the City Commission for the proper administration of all affairs of the City and to that end, his the City Manager's powers are and they shall be:

- (a) To see that the laws and ordinances are enforced.
- (b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees and of the City; all appointments to be made upon merit and fitness alone.
- (c) To exercise control and direct supervision over all departments and divisions of the municipal government under this Charter, or which may hereafter be created by the City Commission, including public utilities owned by said City.
- (d) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the City Attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.
- (e) To attend all meetings of the City Commission, and of its Committees, with right to take part in the discussion, but without having a vote.
- (f) To recommend to the Commission for adoption such measures as he may deemed ed necessary or expedient in the interest of the City.
- (g) To keep the City Commission fully advised monthly as to the financial condition and needs of the City and to submit for its consideration an annual budget.
- (h) To enforce and administer any zoning regulations established by said the City Commission, but said the City Commission shall hear and review any order, requirement, decision or determination made by the City Manager ~~him~~ in the enforcement of the zoning regulations.
- (i) To perform such other duties as may be prescribed under this Charter or as may be required of him by ordinance or resolution of the City Commission.
- (j) ~~He shall be~~ To act as the purchasing agent for the City, by whom all purchases of supplies shall be made. The City Manager ~~and he~~ shall approve all vouchers for the payment of same. In the capacity of Purchasing Agent, the City Manager ~~he~~ shall also conduct all sales of personal property which the Commission may authorize to be sold as having become unnecessary or unfit for the city's use.
- (k) To act as the city clerk, where required by law or otherwise necessary to serve the interests of the City.

Sec. 27. - City attorney—Appointment; duties.

The City Commission shall appoint a City Attorney who shall act as the legal advisor to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. ~~He~~ The City Attorney shall approve all contracts, bonds, and other instruments in writing in which the municipality is concerned, and no contract with the municipality shall take effect until ~~his~~ the City Attorney's approval is so endorsed thereon. ~~He~~ The City Attorney shall prosecute and defend, for and in behalf of the City, all complaints, suits and controversies in which the City is a party, unless otherwise directed by the City Commission. ~~He~~ The City Attorney shall furnish the City Commission ~~and/or~~ the City Manager ~~his~~ an opinion on any question of law relating to their respective powers and duties.

Sec. 28. - Same—Additional duties.

In addition to the duties specifically imposed under the preceding section [section 27 of this compilation] ~~he~~ the City Attorney shall perform such other professional duties as may be required ~~of him~~ by ordinance or resolution of the City Commission, or as are prescribed, for City Attorneys under the General Laws of the State which are [not] inconsistent with this Charter and with any ordinance or resolution which may be passed by the City Commission.

Sec. 29. - Same—Qualifications.

The City Attorney shall be a lawyer who has been properly admitted to the Bar of the State of Florida and is at present in good standing therewith.

Sec. 30. - [Reserved.]

~~City treasurer and collector.~~

~~There shall be a City Treasurer and Collector who shall be a member of the City Commission and who shall countersign all checks and vouchers prepared by the City Manager.~~

ARTICLE IV. - ELECTIONS

Sec. 31. - Qualifications and election of City Commission Candidate.

The offices of the City Commission, other than Mayor, shall be numbered one through four, inclusive. A candidate for City Commission must declare the seat for which ~~he~~the candidate is running in order to qualify for election. At all elections, the candidate qualifying for that seat or the Mayor seat receiving a majority of votes cast for that seat or the Mayor seat shall be deemed elected. If two or more persons qualify for a seat and none receives a majority of the votes cast for that seat, the two candidates receiving the highest number of votes shall face each other in a runoff election to be held on the Tuesday immediately following the third Monday in May after the general election. The person receiving the highest number of votes at ~~said~~the runoff election shall be elected. The canvass of returns for ~~said~~the runoff election shall be the same as is provided for a general election. If a runoff election is necessary, the incumbent shall remain in office until the runoff election is canvassed and certified. The term of office of a person elected at a general election and a runoff election shall begin immediately upon the canvassing and certification of the runoff election.

Sec. 32. - Canvass of returns.

The result of the voting when ascertained, shall be certified to the Canvassing Board by a return in duplicate, signed by the clerk and a majority of the inspectors of the election. Such returns shall be made to the City Commission by the Canvassing Board at the next regularly scheduled commission meeting ~~to be held at 12 noon on the day~~ following the election. At such meeting, the City Commission shall convey the return and include the result of the election.