

## ARTICLE II. - CITY COMMISSION

## 2.01. - Composition.

## (1) Population under 110,000.

- (a) As long as the population of persons within the city remains under 110,000, the legislative power of the city is vested in a city commission of five members. Three members shall be elected by the qualified voters of each of three districts and two members shall be elected by the qualified voters of the city at large.
- (b) For the regular election in 1998, the at large seat then available shall become and remain the mayor's seat. Candidates shall designate at time of qualifying that they are running for mayor. The mayor shall be elected by the qualified voters of the city at large, and shall be considered a member of the commission, except as expressly provided herein.

(2) Population of 110,000 and over. At any time the population within the City reaches or exceeds 110,000 persons, as ascertained as of the effective date of any annexation under either: 1) the most recent decennial census of the population produced by the U.S. Bureau of the Census, or 2) the most recent estimates of populations of municipalities produced by the State of Florida, Office of the Governor, or the designated agency thereof, whichever number is greater, then the commission shall adopt a resolution which ratifies the number of persons in the City and authorizing the increase in the number of commissioners as provided in subsection (3). Until such time as the additional commissioners are elected and placed in office, however, the legislative power of the city shall remain vested in a commission of five members.

(3) The legislative power of the city shall be vested in a city commission of seven members including the mayor (when the population within the City reaches or exceeds 110,000 persons as provided in Subsection (2) above) elected in accordance with Sec. 2.04 of this Charter. Four members shall be elected by the qualified voters of each of four districts and two members and the mayor shall be elected by the qualified voters of the city at large as provided in Sec. 2.04

(Ord. No. 3752, § 1, 12-16-91; referendum of 3-10-92; Ord. No. 4053, § 1, 1-23-95)

## 2.02. - Districts.

(1) For the purpose of electing three members of the commission (as long as the population within the City remains under 110,000 as provided in Sec. 2.01(1)), the commission shall, by ordinance, apportion the city into three consecutively numbered districts and shall adjust the boundary lines of the districts by subsequently enacted ordinances whenever, in its judgment, the districts are not ratably or equally proportioned in accordance with the State Constitution and the Constitution of the United States, but not less frequently than within the second year following each decennial census.

(2) For the purpose of electing four members of the commission (when the population within the City reaches or exceeds 110,000 as provided in Sec. 2.01(2)), the commission shall, by ordinance, apportion the city into four consecutively numbered districts and shall adjust the boundary lines of the districts by subsequently enacted ordinances whenever, in its judgment, the districts are not ratably or equally proportioned in accordance with the State Constitution and the Constitution of the United States, but not less frequently than within the second year following each decennial census.

(Ord. No. 3752, § 1, 12-16-91; referendum of 3-10-92; Ord. No. 4053, § 1, 1-23-95)

## 2.03. - Eligibility.

Each candidate for a district seat must be a qualified voter who is a resident of the district from which the person seeks to be elected for a period of not less than 6 months prior to the date the person qualifies to run for office. Each commissioner elected from a district shall continuously reside in the district during

the commissioner's term of office, except that any commissioner who is removed from a district by redistricting may continue to serve during the remainder of the commissioner's term of office. Each candidate for an at-large seat, including the mayor's seat, must be a qualified voter of the city for at least six (6) months prior to the date the person qualifies to run for office. Each at-large commissioner and the mayor shall continuously reside within the city during their terms of office. Candidates for the commission shall, at the time of qualifying, designate the district seats, the mayor's seat, or at-large seats for which they intend to run. A commissioner may not serve on the commission for more than two (2) consecutive three-year terms. The mayor may not serve as mayor for more than two (2) consecutive three-year terms. For purposes of this section, service as the elected mayor shall not be considered to be service as a commissioner.

(Ord. No. 4053, § 1, 1-23-95)

#### 2.04. - Election and terms.

- (1) (a) Candidates for election to the commission shall qualify in the manner prescribed by ordinance.
- (b) Except as provided in Subsection (1)(c) herein, each commissioner shall be elected for a term of 3 years.
- (c) For the purpose of providing more evenly staggered terms of office, in the regular municipal election held in 2003, the district seat added pursuant to Sec. 2.01(3) of this Charter shall be elected for an initial term of office of one year, and the at-large seat added pursuant to Sec. 2.01(3) of this Charter shall be elected for an initial term of two years. Thereafter, the terms of office for said seats shall be 3 years.
- (d) The regular municipal election shall be held on the date as prescribed by ordinance.
- (e) Upon the occurrence of a vacancy on the commission, a special election may be held to fill the vacancy for the remainder of the unexpired term as may be prescribed by ordinance.
- (2) The district candidate receiving a majority of the votes cast in a particular district shall be elected. The at-large candidate and the candidate for mayor receiving a majority of the votes cast within the city at large for such seat shall be elected. If a candidate does not receive a majority of the votes cast for a particular seat, as applicable, a runoff election shall be held between the two (2) candidates for that seat receiving the highest number of votes cast. In the case of a tie, the candidates shall be selected for the runoff election in the same manner as provided for other offices by general law. The candidate receiving more votes in the runoff election shall be elected.
- (3) The terms of office of commissioners shall be staggered so that the terms of office of all commissioners do not expire the same year. Commissioners hold office from 12 o'clock noon of the Thursday following the first Tuesday in May of the year in which they are elected until their successors in office are elected and qualified or until recalled as provided by law. If a runoff election is necessary, commissioners hold office from 12 o'clock noon of the Thursday following the third Tuesday in May of the year in which they are elected.
- (4) Vacancies in office shall be filled in one of the following ways:
  - (a) If less than 6 months remain in the unexpired term or until the next regular election, the commission by a majority vote of the remaining members shall choose and appoint a successor, who is otherwise eligible under section 2.03 of this act, to serve until a newly elected commissioner is qualified.
  - (b) If more than 6 months remain in the unexpired term and a general election is not scheduled within 6 months, the commission shall fill the vacancy by a special election to be held not more than 60 days after the occurrence of the vacancy.

(Ord. No. 4053, § 1, 1-23-95; Ord. No. 020289, § 1, 8-27-02)

#### 2.05. - Recall of commissioners.

Commissioners including the mayor are subject to recall as provided by law.

2.06. - Commission as judge of qualifications of members; election of mayor-commissioner pro tempore; rules of procedure; punishment of members for misconduct; and quorum.

The commission shall be the judge of the qualifications of its own members, subject to review by the courts, and shall elect one member as the mayor-commissioner pro tempore. The commission may determine its own rules of procedure and may punish its own members for misconduct. A majority of all the members of the commission constitutes a quorum to do business but a smaller number may adjourn.

(Ord. No. 4053, § 1, 1-23-95)

2.07. - Commission actions; majority vote necessary for adoption of ordinances and resolutions.

The commission shall act by motion, proclamation, resolution, or ordinance. Unless otherwise provided in this act or by law, a motion or a proclamation is adopted when approved by the votes of a majority of the members present, and an ordinance or resolution is adopted when approved by the votes of four or more members of the commission.

(Ord. No. 4053, § 1, 1-23-95; Ord. No. 020749, § 1, 2-10-03)

2.08. - Mayor.

The mayor shall be the presiding officer of the commission and shall exercise such powers conferred and implied by, and perform all duties imposed by, this act, the ordinances of the city, and the laws of the state. The mayor shall have a voice and a vote in the proceedings of the commission, but no veto power. The mayor shall be the official head of the city for receipt of service of legal processes, the purposes of military law, and all ceremonial purposes, but shall have no administrative duties. The mayor-commissioner pro tempore shall perform the functions and duties of the office of mayor in the absence of the mayor.

(Ord. No. 4053, § 1, 1-23-95)

2.09. - Commissioner forfeiture of office and interest in contracts.

Any commissioner including the mayor who ceases to possess any of the qualifications required by this act shall forfeit the office of commissioner. Any contract of the city in which any commissioner has or may have a conflict of interest is voidable by the commission.

(Ord. No. 4053, § 1, 1-23-95)

2.10. - Interference with charter officers.

Neither the commission nor any commissioner, including the mayor, may dictate the appointment of any person to office or employment by the charter officers nor in any manner interfere with the independence of charter officers in the performance of their duties. Except for the purpose of an inquiry, the commission and its members, including the mayor, must deal with employees of the city solely through their respective charter officers, and neither the commission nor any commissioner, including the mayor, may give orders to any subordinates of the charter officers either publicly or privately. Any commissioner, including the mayor, who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes.

(Ord. No. 4053, § 1, 1-23-95)

2.11. - Oaths of office.

Before taking office for any term each commissioner shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, honor, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold

office under the Constitution of the State and under the charter of the City of Gainesville; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter."

(Ord. No. 4053, § 1, 1-23-95)