

ORDINANCE 2024-12

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, CALLING FOR TWO (2) REFERENDA QUESTIONS TO BE PLACED BEFORE THE QUALIFIED ELECTORS OF THE TOWN OF LONGBOAT KEY AT THE MARCH 11, 2025, GENERAL ELECTION; PROVIDING A CHARTER REFERENDUM QUESTION DETERMINING WHETHER ARTICLE II, SECTION 13, OF THE TOWN OF LONGBOAT KEY CHARTER ENTITLED "MEETINGS" SHOULD BE AMENDED TO ALLOW THE TOWN COMMISSION DISCRETION TO CANCEL THE REGULAR VOTING MEETING OF THE TOWN COMMISSION IN THE MONTH OF JULY; PROVIDING A CHARTER REFERENDUM QUESTION DETERMINING WHETHER ARTICLE III, SECTION 3, OF THE TOWN OF LONGBOAT KEY CHARTER SHOULD BE REVISED TO ALLOW FOR THE APPOINTMENT OF A QUALIFIED INDIVIDUAL TO SERVE AS THE ACTING TOWN MANAGER IN THE EVENT OF THE TOWN MANAGER'S TEMPORARY UNAVAILABILITY OR INABILITY TO ACT; PROVIDING FOR THE FULL TEXT OF THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR A SPANISH LANGUAGE TRANSLATION OF THE CHARTER AMENDMENT REFERENDA QUESTIONS; PROVIDING FOR AN EFFECTIVE DATE IF THE PROPOSED CHARTER AMENDMENTS ARE APPROVED; PROVIDING FOR THE FILING OF THE ORDINANCE WITH THE SARASOTA AND MANATEE COUNTY SUPERVISORS OF ELECTIONS; PROVIDING FOR PUBLICATION OF THE PROPOSED CHARTER AMENDMENT TEXT; PROVIDING FOR THE FILING WITH THE FLORIDA DEPARTMENT OF STATE IF THE PROPOSED CHARTER AMENDMENTS ARE APPROVED; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION IF THE PROPOSED CHARTER AMENDMENTS ARE APPROVED; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key's Town Charter was initially adopted by referendum of the Town's voters held on March 20, 1975, and was thereafter amended by referendum approval of the Town's voters held on September 21, 1989, March 17, 1998, March 9, 1999, March 18, 2008, March 20, 2018, and November 5, 2018; and

WHEREAS, Article II, Section 13, of the Town Charter establishes a requirement that the Town Commission hold monthly regular voting meetings and workshops throughout the calendar year but provides an allowance for the Town Commission to cancel certain specific workshops and a voting meeting during summer months; and

WHEREAS, the Town Commission's regular voting meetings typically take place on the first Monday of each month; and

WHEREAS, during the month of July, the Town Commission's regular voting meeting frequently conflicts with the July 4th holiday requiring the Town Commission to delay the Town Commission's summer recess to accommodate a July voting meeting; and

WHEREAS, due to Florida's Sunshine law requirements, Town Commission meetings are required to have a minimum of four (4) Town Commissioners physically present to conduct a voting meeting; and

WHEREAS, historically, the Town Commission's July regular voting meeting is not well attended by members of the public as many of the Town's residents travel during the summer months of July and August; and

WHEREAS, the Town Charter currently allows the Town Commission to cancel the Town Commission's August regular voting meeting, but not the July regular voting meeting; and

WHEREAS, modifying the Town Charter to provide the Town Commission with greater flexibility to cancel the Town Commission's July meeting serves a valid public purpose by ensuring: (a) the Town Commission's voting meetings will be scheduled during periods when there is more public attendance, (b) the physical quorum requirements for public meetings of the Town Commission will be satisfied, and (c) that certain restrictions on the Town Commission's public service are addressed to provide Town Commissioners additional flexibility to cancel the July voting meeting.

WHEREAS, Article III, Section (3)(b), of the Town Charter provides for the appointment of a "qualified town administrative officer" to serve as the acting Town Manager when the Town Manager is unavailable or unable to act; and

WHEREAS, the appointment of many of the Town's "administrative officers" as the acting Town Manager could potentially run afoul of the dual office holding prohibition provided for in Section 5(a), Article II, of the Florida Constitution that prohibits a person from simultaneously serving in more than one "office" within a municipality; and

WHEREAS, the existing dual office holding prohibition conflict can be corrected by amending Article III, Section (3)(b), of the Town Charter to clarify that the Town Manager or Town Commission can appoint a "qualified individual" in lieu of an "administrative officer" to serve as acting Town Manager in the event of the Town Manager's temporary unavailability or inability to act; and

WHEREAS, the Town Commission finds it is in the best interest of the public to address the potential conflict between the Town's Article III, Section 3, Charter language and the Florida Constitution by providing alternative language for the appointment of an Acting Town Manager in instances when the Town Manager is temporarily unavailable or unable to serve; and

WHEREAS, Article VII, Section 1(a), of the Town Charter provides that the Town Commission may frame and propose amendments to the Town Charter by ordinance; and

WHEREAS, the Town Commission hereby authorizes the placement of the two (2) referenda questions more particularly described herein be placed on the March 11, 2025, ballot for consideration by the Town's qualified voters.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA THAT:

Section 1. The Whereas clauses above are ratified and approved as true and correct, and are hereby incorporated fully by reference.

Section 2. A referenda of the qualified electors of the Town is hereby called to be held on Tuesday, March 11, 2025, in conjunction with the Town of Longboat Key's general election, for the purpose of submitting to the Town's voters two (2) referenda questions, as more particularly set forth below, as to whether Article II, Section 13, of the Town Charter and Article III, Section 3, of the Town Charter should be amended. The referendum question associated with Article II, Section 13, of the Town Charter will determine whether to allow

the Town Commission discretion to cancel the Town Commission's regular voting meeting during the month of July. The referendum question associated with Article III, Section 3, of the Town Charter will address a potential conflict with the Constitutional prohibition on officers holding dual offices and determine whether a qualified individual may be appointed as acting Town Manager in the event of the Town Manager's temporary unavailability or inability to act.

Section 3. If the referendum on Article II, Section 13, of the Town Charter entitled "Meetings" is approved by the qualified electors of the Town, Article II, Section 13, shall be amended. The full text of the amended Article II, Section 13, Town Charter language is set forth below:

Sec. 13. - Meetings.

- (a) Pursuant to Article II, Section 6, of this Charter following each general municipal election, the Town Commission shall meet at the usual place for holding the meeting of the legislative body of the Town, at which time the newly elected Commissioners shall assume the duties of office. Thereafter the Town Commission shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month for a regular voting meeting and once each month for a regular non-voting workshop, except that the regular monthly voting meetings and non-voting workshops in the months of July and August may be canceled by the Commission if canceled at least thirty (30) days prior to the day on which the workshops and meetings would normally be conducted.
- (b) All meetings of the Town Commission and of the committees thereof shall be public. Any citizen shall have access to the minutes and records thereof at all reasonable times. The Commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

Section 4. If the referendum on Article III, Section 3, of the Town Charter entitled "Assistant town manager and acting town manager" is approved by the qualified electors of the Town, then Article III, Section 3, shall be amended. The full text of the amended Article III, Section 3, Town Charter language is set forth below:

Sec. 3. - Assistant Town Manager and Acting Town Manager.

- (a) Assistant Town Manager. Subject to the advice and consent of the Town Commission, the Town Manager may establish an Assistant Town Manager position and appoint an individual to fill such position solely on the basis of professional and administrative qualifications.
- (b) Acting Town Manager. By written notice filed with the Town Clerk, the Town Manager, or in his absence, the Town Commission, shall designate an Assistant Town Manager, or a qualified individual, to exercise the powers and perform the duties of Town Manager during any temporary unavailability or inability to act. During such unavailability or inability, the Town Commission may revoke such designation at any time and appoint another qualified individual to serve until the Town Manager shall return or the unavailability or inability shall cease.

Section 5. The full text of the existing Charter language in Article II, Section 13, and Article III, Section 3, of the Town Charter is set forth below:

Article II

Sec. 13. - Meetings.

- (a) Pursuant to Article II, Section 6, of this Charter following each general municipal election, the town commission shall meet at the usual place for holding the meeting of the legislative body of the town, at which time the newly elected commissioners shall assume the duties of office. Thereafter the town commission shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month for a regular voting meeting and once each month for a regular non-voting workshop, except that the regular non-voting workshops in the months of July and August and the regular monthly voting meeting in the month of August may be cancelled by the commission if cancelled at least thirty (30) days prior to the day on which the meeting would normally be conducted.
- (b) All meetings of the town commission and of the committees thereof shall be public. Any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

Article III

Sec. 3. - Assistant town manager and acting town manager.

- (a) Assistant town manager. Subject to the advice and consent of the town commission, the town manager may establish an assistant town manager position and appoint an individual to fill such position, solely on the basis of professional and administrative qualifications.
- (b) By written notice filed with the town clerk, the manager, or in his absence, the town commission, shall designate an assistant town manager, or a qualified town administrative officer, to exercise the powers and perform the duties of manager during any temporary unavailability or inability to act. During such unavailability or inability, the town commission may revoke such designation at any time and appoint another officer of the town to serve until the manager shall return or the unavailability or inability shall cease.

Section 6. The questions pertaining to the adoption of the proposed amendments to Article II, Section 13 and Article III, Section 3, of Town Charter shall be submitted to the qualified electors of the Town in substantially the following form which shall be printed on the ballot:

**OFFICIAL BALLOT
TOWN OF LONGBOAT KEY, FLORIDA
CHARTER AMENDMENT QUESTIONS
MARCH 11, 2025**

REFERENDUM REGARDING TOWN COMMISSION MEETINGS

Shall Article II, Section 13, of the Charter of the Town of Longboat Key be amended to allow the Town Commission to cancel the Town Commission's July regular voting meeting with advance notice of at least thirty (30) days prior to the meeting date?

YES - FOR ADOPTION _____

NO – AGAINST ADOPTION _____

REFERENDUM REGARDING ACTING TOWN MANAGER APPOINTMENT

Shall Article III, Section 3, of the Charter of the Town of Longboat Key be revised to address a potential conflict with the Constitutional prohibition on officers holding dual office and allow the Town Manager or Town Commission to appoint a qualified individual to serve as acting Town Manager in the event of the Town Manager's temporary unavailability or inability to act?

YES - FOR ADOPTION _____

NO – AGAINST ADOPTION _____

Section 7. Returns of the votes cast at the referendum shall be made as required by law. If a majority of the votes cast for a particular referendum question shall be "YES – FOR ADOPTION," then the referendum question shall be approved, and the proposed amendment to the Town Charter shall become effective as of 12:01 a.m. on the day following the Town Commission's canvass of the referendum results. If less than a majority of the votes cast for the referendum question shall be "YES – FOR ADOPTION," then the referendum question shall be defeated, the adoption of the proposed amendment to the Town Charter shall have failed and shall not be effective or operative, and the same shall be void and have no effect. The referendum question's defeat shall result in the existing language in Article II, Section 13, or Article III, Section 3, of the 2018 Town Charter of the Town of Longboat Key remaining in full force and effect.

Section 8. To the extent required by law, the official ballot referenda shall be published in both the English and Spanish language. The Town of Longboat Key shall pay the costs associated with obtaining a certified Spanish translation of the above-stated official ballot questions.

Section 9. Pursuant to Article VII, Section 3, of the Town Charter, the entire text of the proposed amendments to Article II, Section 13, and Article III, Section 3, of the Town Charter, as set forth in Sections 3 and 4 of this Ordinance, respectively, shall be published in a newspaper of general circulation in the Town not less than seven (7) nor more than sixty (60) days prior to the date of the referenda provided for in Section 2 of this Ordinance. Additionally, full copies of this Ordinance hereto shall be available for inspection and copying at Town Hall.

Section 10. The laws and ordinances in effect in the Town of Longboat Key at the time of this referenda governing election procedures, including the laws and ordinances governing the voting and counting of absentee ballots, shall apply to and govern the referendum provided for herein and all matters pertaining thereto, except as otherwise provided for in the Town Charter.

Section 11. The Town Clerk is hereby directed to forward a copy of this Ordinance to the Manatee and Sarasota Supervisors of Elections following adoption of this Ordinance by the Town Commission.

Section 12. If the Town's voters approve one or both of the referenda questions as provided for herein, the Town Clerk is hereby instructed to file the approved proposed amendment with the Department of State in accordance with Florida Statutes 166.031 (2).

Section 13. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

Section 14. If any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

Section 15. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key upon adoption if the Town's voters approve the referendum question.

Section 16. This Ordinance shall become effective upon second reading and adoption. If the Town's qualified voters approve the proposed amendment to Article II, Section 13, or Article III, Section 3, of the Town Charter by referendum approval, the approved proposed charter amendment shall become effective as specifically provided for in Section 7 above.

Passed on the first reading this 4th day of November, 2024.

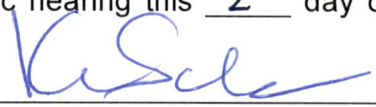
Adopted on the second reading and public hearing this 2nd day of December, 2024.

ATTEST:



~~Trish Shinkle, Town Clerk~~

Savannah Cobb, Deputy Town Clerk


Kenneth Schneier, Mayor



Proposed Article II, Section 13 and Article III, Section 3, Town Charter amendments in strike-through and underlined format:

Article II

Sec. 13. - Meetings.

(a) Pursuant to Article II, Section 6, of this Charter following each general municipal election, the ~~the~~Town ~~e~~Commission shall meet at the usual place for holding the meeting of the legislative body of the ~~the~~Town, at which time the newly elected ~~e~~Commissioners shall assume the duties of office. Thereafter the ~~the~~Town ~~e~~Commission shall meet at such times as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month for a regular voting meeting and once each month for a regular non-voting workshop, except that the regular monthly voting meetings and non-voting workshops in the months of July and August ~~and the regular monthly voting meeting in the month of August~~ may be cancelled by the ~~e~~Commission if cancelled at least thirty (30) days prior to the day on which the workshops and meetings would normally be conducted.

(b) All meetings of the ~~the~~Town ~~e~~Commission and of the committees thereof shall be public. Any citizen shall have access to the minutes and records thereof at all reasonable times. The ~~e~~Commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

Article III

Sec. 3. - Assistant ~~the~~Town ~~m~~Manager and a~~n~~Acting ~~the~~Town ~~m~~Manager.

(a) Assistant T~~the~~own M~~m~~anager. Subject to the advice and consent of the T~~the~~own C~~e~~ommission, the T~~the~~own M~~m~~anager may establish an A~~a~~ssistant T~~the~~own M~~m~~anager position and appoint an individual to fill such position, solely on the basis of professional and administrative qualifications.

(b) Acting Town Manager. By written notice filed with the T~~the~~own C~~e~~lerk, the T~~the~~own m~~m~~anager, or in his absence, the ~~the~~Town ~~e~~Commission, shall designate an a~~a~~ssistant t~~the~~own m~~m~~anager, or a qualified ~~town administrative officer~~ individual, to exercise the powers and perform the duties of the Town m~~m~~anager during any temporary unavailability or inability to act. During such unavailability or inability, the ~~the~~Town ~~e~~Commission may revoke such designation at any time and appoint another ~~officer~~ of the town qualified individual to serve until the Town m~~m~~anager shall return or the unavailability or inability shall cease.