

ORDINANCE NO. 10-604

AN ORDINANCE PROPOSING AN AMENDMENT TO SECTIONS 405, 407, AND 408 OF THE CHARTER OF THE TOWN OF LAKE PLACID, FLORIDA; CITING AUTHORITY; PROVIDING FOR APPROVAL BY A MAJORITY OF THE ELECTORS OF THE TOWN OF LAKE PLACID, FLORIDA IN A REFERENDUM; PROVIDING A BALLOT TITLE; PROVIDING SUBSTANCE OF AMENDMENT FOR BALLOT; PROVIDING FOR AN EFFECTIVE DATE OF THE ORDINANCE; AND PROVIDING FOR THE EFFECTIVE DATE OF THE CHARTER AMENDMENT.

WHEREAS, the Lake Placid Town Council hereby proposes an amendment to the Lake Placid Town Charter as hereinafter set out; and

WHEREAS, the Town Charter may only be amended by the voters of the Town of Lake Placid; and

WHEREAS, the law provides that the Lake Placid Town Council may by ordinance place proposed Charter amendments before the Town electors; and

WHEREAS, two public hearings were held by the Town Council on this ordinance on:

The 10th day of May 2010; and
The 24th day of May 2010;

WHEREAS, it appears to be in the best interest of the Town of Lake Placid that this ordinance be adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LAKE PLACID, FLORIDA;

Section 1. Proposed Amendment of Town Charter. The Lake Placid Town Council hereby proposes that Sections 405, 407, and 408 of the Lake Placid Town Charter be amended as follows:

Section 401. Governing body; powers; composition.

There shall be a governing body, composed of a Mayor and four (4) Councilmen, which shall be called the "Town Council" and have all the legislative and governing powers of Lake Placid vested therein.

Section 402. Qualifications for holding office of Mayor or Councilman; judge of election and qualifications.

Any elector of the town shall be eligible to hold the office of Mayor or Town

Councilman, provided that he shall be registered to vote in the town elections six (6) months immediately preceding the date of taking office. The Council shall be the judge of the election and qualifications of candidates for the offices of Mayor and Council and of the grounds for forfeiture of their office.

Section 403. Elections and terms.

The regular election of the Mayor and Town Council shall be held on the first Tuesday after the first Monday in April in every other year, beginning in April, 1984, in the manner provided for in Article V of this Charter, and shall be for four-year staggered terms.

Beginning with the election in April 2000, the composition of the Town Council will begin changing to Town Council members elected at large without regard to the district in which they reside. In 2000, Town Council seats 3 and 4 (currently Districts 3 and 4) shall be open for election. In 2002, Town Council seats 1 and 2 (currently Districts 1 and 2) shall be open for election. In each election, candidates shall run for the two open Town Council seats in one race. Each voter shall be entitled to cast the number of votes equal to the number of seats to be filled by the particular election. The two candidates receiving the greatest number of votes shall be elected for four (4) year terms.

The following elections shall be held biannually on the same date and in the same manner.

The Mayor shall be elected in the same manner as the Council members; provided, however, that the present Mayor shall serve until the election to be scheduled in April, 1986, and at such time his successor shall be elected to serve for a period of four (4) consecutive years.

The newly elected Mayor and Council members shall take office at the next regular meeting of the Council after being accepted and certified by the Council.

Section 404. Compensation and expense reimbursements.

The Mayor shall be paid one hundred fifty dollars (\$150.00) per month and the Council shall be paid one hundred dollars (\$100.00) per month. In addition, they shall be reimbursed any vouchered out-of-pocket expenses incurred while acting for or in the town's behalf. Further, the Council in its sole discretion may elect to pay hospitalization and medical insurance on behalf of the Mayor and the Council.

Any ordinance determining an annual increase in salary shall not become effective until the commencement of the terms of the persons elected at the next regular town election, provided that such election follows the adoption of such ordinance by at least six (6) months.

Section 405. Mayor.

The Mayor shall be elected by the electors of the town and shall serve for a term of four (4) years. The Mayor ~~shall be both chief executive officer and chief administrative officer of the town and~~ shall preside at all meetings of the Council, shall be a voting member of the Town Council, shall be recognized as head of the town government for service of process and

ceremonial matters, and for the execution of contracts, deeds, and other documents. ~~The Mayor may not vote on any matters before the Council, but shall vote to break a tie. The mayor shall have no administrative duties other than those necessary to accomplish these duties.~~

Section 406. Vice Mayor.

The Vice Mayor shall be elected by the Town Council from among its members annually at the organizational meeting of the Town Council in May of each election year. During the absence or disability of the Mayor, the Vice Mayor shall perform the duties of the office of the Mayor. In the event of death or extended absence of the Mayor, the Vice Mayor shall be designated Mayor to fill the unexpired term of the late or absent Mayor.

~~Section 407. Appointment of town employees.~~

~~The Mayor, with the consent of the Town Council, shall from time to time appoint employees of the town. These shall include, but not be limited to, Police Chief, Fire Chief, Town Clerk, Town Attorney, Town Supervisor, employees or technical consultants. No Councilman may hold any town employment during the term for which he was elected to the Council; and no former Councilman shall hold any compensated town employment until one (1) year after vacating the office to which he was elected. Any two (2) or more appointive positions in and for the town may be held by the same person.~~

TEXT APPROVED 20 JUNE MEETING.

Section 407. Town Manager, Town Clerk and Town Attorney.

All powers of the Town shall be vested in the Town Council except those powers specifically given by this Charter or Town Ordinance to the Town Manager, Town Clerk or Town Attorney, or specifically reserved by this Charter to the electors of the town.

The Town Manager, Town Clerk and Town Attorney shall be appointed by the Council, and shall serve at the pleasure of the Council. The Town Attorney may be employed by the Town or be an independent contractor.

Neither the Town Council nor any of its members shall in any manner dictate the appointment or removal of any Town employee, except the Town Manager, Town Clerk or Town Attorney, nor shall the Council or any of its members give orders to any employee other than Council orders to the Town Manager, Town Clerk and Town Attorney. The Council or its members shall deal on all matters through the Town Manager, Town Clerk and Town Attorney.

DELETED 20 JUNE MEETING.

Section 407. Charter Officers.

All powers of the town shall be vested in the town council except those powers specifically given to the Charter officers or specifically reserved by this Charter to the

electors of the town.

The town manager, town clerk, and town attorney are designated Charter officers.

The Charter officers shall be appointed by the council and shall serve at the pleasure of the council subject to the provisions of this section.

Neither the town council nor any of its members shall in any manner dictate the appointment or removal of any town employee except the Charter officers nor shall the council or any of its members give orders to any employee other than council orders to a Charter officer. The council or its members shall deal on all matters through the appropriate Charter officer.

Section 408. Supervision of departments.

~~Except as otherwise provided in this Charter, the Mayor shall be responsible for the supervision and direction of all departments, agencies or offices of the town. All departments, agencies and offices shall be administered by the officer appointed by and subject to the direction and supervision of the chief administrative officer.~~

Section 408. Town manager--Powers and duties.

The town manager when necessary shall appoint, suspend, demote, or dismiss any town employee under his jurisdiction in accordance with law and the personnel rules, and may authorize any department head to exercise these powers with respect to subordinates in that department. The town manager shall direct and supervise the administration of all departments of the town except the offices of town clerk and town attorney and shall attend all council meetings unless excused by council and shall have the right to take part in discussions, but not vote. He shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the council subject to enforcement by him are faithfully executed, and he shall act as the town's director of emergency management with all of the authority of that position either granted by the town's emergency management plan, the town council, state law, town or county ordinance. The town manager shall also prepare and submit the annual budget, budget message, and capital program to the council, and shall keep the council fully advised as to the financial condition and future needs of the town, and shall make such recommendations to the council concerning the affairs of the town as he deems desirable. The town manager shall designate a qualified town employee to exercise the powers and perform the duties of town manager during any temporary absence or disability of the town manager. The council may revoke such designation at any time and appoint another eligible person, other than a currently sitting councilmember, to serve as acting town manager.

Section 409. Vacancies.

The office of the Mayor or a Councilman shall become vacant upon the incumbent's death, resignation or removal from office in any manner authorized by law or the forfeiture of office; such vacancy is effective where so declared by the Mayor and/or remaining members of the Council.

A Mayor or a Councilman shall forfeit his office if he:

- (1) Lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law.
- (2) Violates any standard of conduct or Code of Ethics established for Florida public officials, such violation to be determined by the Mayor and/or remaining members of the Council; except when such alleged violation involves the Mayor, such violation to be determined by the members of the Council.

A vacancy on the Council shall be filled by a majority vote of the Mayor and remaining Council. The interim Councilman shall serve the unexpired term of the person vacating.

In the event that all members of the Mayor's office and Council are removed by death, disability or forfeiture of office, the Governor shall appoint an interim Council that shall govern the town, and that Council shall call a special election to fill the balance of the terms of each Councilman, such election to be held as provided in this Charter.

In the event that a vacancy is created by the fact that no one runs as a candidate for any of one (1) or more District Council seats, the newly elected Mayor and Councilman, after being certified at the organizational meeting, shall appoint a Councilman or Councilmen from the town's electors to fill the vacancies created.

DELETED REFERENCE TO CLERK AS CFO AND OFFICER.

Section 410. Town Clerk.

The Council shall appoint ~~a an officer of the town who shall have the title of~~ "Town Clerk." The Town Clerk shall give notice of the Council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to him by this Charter or by the Council.

Section 411. Meetings.

The Council shall meet regularly at least once each month at such time and place as the Council may, by resolution, prescribe. Special meetings or work sessions may be held on the call of the Mayor or a majority of the members and whenever practicable, upon no less than twelve (12) hours' notice to each member and to the public.

The Council shall determine its own rules and order of business.

Section 412. Voting.

Voting on ordinances and resolutions shall be by roll call and shall be recorded in the Town Minutes Book. A majority of the Council shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence, shall be valid or binding unless adopted by the affirmative vote of a majority of the quorum present and voting. All members of the Council present at a meeting shall vote unless to do so would place the member in violation of law and the minutes reflect this fact.

Section 413. Actions requiring ordinance.

In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance, those acts of the Town Council shall be by ordinance which:

- (a) Adopt or amend an Administrative Code or establish, alter or abolish any town department or agency.
- (b) Establish a rule or regulation, the violation of which carries penalty.
- (c) Levy taxes authorized by general law.
- (d) Grant, renew or extend a franchise.
- (e) Set service or user charges for municipal services.
- (f) Authorize the borrowing of money not inconsistent with the limitations established in the Constitution and general laws of the state; provided, however, that no general obligation bonds shall be issued by the Council without first receiving approval of the electorate by a duly called referendum.
- (g) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the town.
- (h) Amend or repeal any ordinance previously adopted, except as otherwise provided herein.

Section 414. Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one (1) or more emergency ordinances; but such ordinance may not grant, renew or extend a franchise; set service of user charges for any municipal services; authorize the borrowing of money; or convey or lease land of the town.

An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated on the preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating the emergency exists and describing the emergency in clear and specific terms.

An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least three (3) members of the Council shall be required for adoption. After its adoption, an emergency ordinance shall be recorded and signed as prescribed for other adopted ordinances.

Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

Every emergency ordinance shall be read by title and record made of such reading at the next meeting of the Town Council. An emergency ordinance may be repealed by adoption of a repealing ordinance in the same manner specified in this Charter for adoption of an ordinance or an emergency ordinance.

Section 415. Budget adoption.

The Council shall, by ordinance, adopt the budget for the ensuing year on or before the 30th day of September of each year. If it fails to adopt the budget by that date, the Mayor, by executive order, may direct that the amounts appropriated for current operation for the current fiscal year shall be continued for the ensuing fiscal year for a period of thirty (30) days and renewed each thirty (30) days thereafter, with all items therein prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriations of the amounts specified therein as expenditure from the funds indicated.

Section 416. Supplemental appropriations; reduction of appropriations.

If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the Council, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.

If at any time during the fiscal year it appears probable to the Mayor that the revenues available will be insufficient to meet the amount appropriated, he shall so notify the Council, which shall take such action as the chief administrative officer may recommend or as the Council deems necessary to prevent or minimize deficits, and for that purpose it may, by ordinance, reduce one (1) or more appropriations or transfer funds from one (1) or more accounts, with the limitation that no legal appropriation for debt service may be reduced and no account may be reduced below the amount required by law to be appropriated. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be accomplished by emergency ordinance.

Section 417. Charter amendments.

This Charter may be amended in one (1) of two (2) ways:

- (a) Initiation by ordinance.

The Council may, by ordinance, propose amendments to any part of this Charter, except Article II, prescribing the boundaries of the town, and upon passage of the initiating ordinance, shall place the proposed amendment to a vote of the electors at the next town election or a special election called for such purpose.

Amendment of Article II resulting from annexation done in accordance with the general law shall be by ordinance of the Council and shall not be subject to a vote of the electors except as provided by general law; or

- (b) Initiation by petition.

The electors of the town may propose amendments to his Charter by petition(s) signed by at least ten percent (10%) of the total number of qualified voters registered to vote in the last regular town election.

All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto through their circulation the full text of the proposed Charter amendment.

Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names purport to be and that each signer has an opportunity before signing to read the full text of the proposed Charter amendment.

Upon certification of the petition by the Town Clerk and Highlands County Supervisor of Elections, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last town election, the Council shall place the proposed amendments to a vote of the electors at a special election called for such purpose or the next regular election which is held not less than one hundred twenty (120) days after certification by the Supervisor of Elections.

Section 418. Authentication and disposition of ordinances, resolutions and Charter amendments; established by procedures for adoption by reference.

The Mayor and the Town Clerk shall sign all ordinances and resolutions adopted by the Council, and the Town Clerk shall affix the official Seal of the town thereon. In addition, when Charter amendments have been approved by the electors, the Mayor and the Town Clerk shall sign the Charter amendment, and the Town Clerk shall place the official Seal of the town thereon; such signatures shall reflect the approval of the Charter amendment by the electorate. The Town Clerk shall keep properly indexed books of original copies in full of all ordinances and resolutions passed by the Council. Ordinances may, at the direction of the Council, be

periodically codified. The Town Clerk shall also maintain the town Charter in current form and shall enter all Charter amendments and send a copy of the revised Charter incorporating amendments to the office of the Florida Secretary of State within sixty (60) days after certification of passage.

The Council may, by ordinance, establish procedures for making all resolutions, ordinances, technical codes, adopted by reference and the Charter available to the people of the town for public inspection and available for purchase at a reasonable price.

Section 3. Citation of Authority. The authority for this Ordinance amending the Charter is found in Section 417 of Article IV and Section 507 of Article V of the Charter of the Town of Lake Placid, Florida.

Section 4. Establishment of Amendment Effective Date and Town Ballot. This proposed Charter Amendment shall become effective only if it is approved by a majority of the electors of the Town of Lake Placid voting in a Town election. If this Charter Amendment is rejected by the electors, then and in that event, the foregoing proposed Charter Amendment and this Ordinance will be void.

Section 5. Special Election or Referendum. The Town respectfully requests that Highlands County Supervisor of Elections, the Honorable Joe Campbell, place this matter before the electors of the Town of Lake Placid, Florida during the general election scheduled for 2 November 2010.

Section 6. Ballot Title. This proposed Charter Amendment shall be presented for voting by the following Ballot Title according to Section 101.161, Florida Statutes:

AMENDMENT OF THE LAKE PLACID TOWN CHARTER
CHANGING TO A TOWN MANAGER FORM OF
GOVERNMENT.

Section 7. Substance of Amendment for Ballot. An explanatory

statement showing the substance of the amendment shall be set out on the ballot beneath the ballot title as follows:

The proposed Amendment to the Town Charter changes Lake Placid to a Town Manager form of government. If the amendment is adopted, the Mayor will preside at Town Council meetings but will have no administrative duties. The Town council will employ the Town Manager, Town Clerk and Town Attorney. The town manager will carry out all ordinances and decision of Town Council, and hire, fire and manage all town employees.

- Yes, for the amendment
- No, against the amendment

Section 8. Effective Date of this Ordinance. This Ordinance shall become effective upon adoption by the Town Council of the Town of Lake Placid, Florida. Upon adoption, the Town Clerk shall file a certified copy of this ordinance with the Florida Secretary of State.

Section 9. Effective Date of the Charter Amendment. The proposed amendment to the Lake Placid Town Charter shall become effective if, but only if it is approved by a majority of the electors of the Town of Lake Placid voting in the Town election. If so approved, this Charter Amendment shall become effective on 1 January 2011. The Town Clerk shall file a certified copy of the election with the Florida Secretary of State.

ADOPTED AND ORDAINED this 21st day of June 2010 by the Lake Placid Town Council.

TOWN OF LAKE PLACID

By _____
John Holbrook, Mayor

(SEAL)

Arlene J. Tuck, Town Clerk

THIS ORDINANCE WAS READ in full or by title on at least two(2) separate days in

two (2) separate Town Council meetings (on 10 and 24 May 2010). Notice of the proposed enactment containing the Ordinance title, stating that a copy may be obtained at Town Hall, and stating the date, time and place of the above hearings and advising that interested parties may appear at the meeting and be heard with respect to the proposed ordinance was published at least once in the *Lake Placid Journal* on the _____ day of May 2010, being at least ten (10) days prior to adoption.

Arlene J. Tuck, Town Clerk

**TOWN OF LAKE PLACID
NOTICE OF REFERENDUM**

The Town of Lake Placid has called a referendum on 2 November 2010 for the Town voters to consider an amendment to the Lake Placid Town Charter by the following ballot title:

AMENDMENT OF THE LAKE PLACID TOWN CHARTER
CHANGING TO A TOWN MANAGER FORM OF
GOVERNMENT.

The substance of the Town Charter Amendment to appear on the referendum ballot follows:

The proposed Amendment to the Town Charter changes Lake Placid to a Town Manager form of government. If the amendment is adopted, the Mayor will preside at Town Council meetings but will have no administrative duties. The Town council will employ the Town Manager, Town Clerk and Town Attorney. The town manager will carry out all ordinances and decision of Town Council, and hire, fire and manage all town employees.

Yes, for the amendment
 No, against the amendment

A complete text of the proposed Town Charter Amendment and Ordinance proposing the Town Charter Amendment may be obtained at the Town Hall, 51 Park Drive, Lake Placid, Florida.

TOWN OF LAKE PLACID

By: _____
John Holbrook, Mayor

Attest: _____
Arlene J. Tuck, Town Clerk

(SEAL)