

## **PART I**

### **CHARTER\***

#### **TOWN OF HAVANA, FLORIDA**

##### **Article I. General Provisions**

- Sec. 1.01. Creation of powers.
- Sec. 1.02. Corporate limits.
- Sec. 1.03. Power and jurisdiction.
- Sec. 1.04. Legislative powers of town.

##### **Article II. Town Council**

- Sec. 2.01. Membership.
- Sec. 2.02. Qualifications of members.
- Sec. 2.03. Election and term.
- Sec. 2.04. Compensation.
- Sec. 2.05. Quorum.
- Sec. 2.06. Vacancies.
- Sec. 2.07. Mayor and mayor pro tempore selection, powers and duties.

##### **Article III. Elections**

- Sec. 3.01. Group designations for qualification and election.
- Sec. 3.02. Date and conduct of elections.
- Sec. 3.03. Nonpartisan elections.
- Sec. 3.04. Nominations.
- Sec. 3.05. Form of ballot.

##### **Article IV. Administrative**

- Sec. 4.01. Town manager.
- Sec. 4.02. Town clerk.
- Sec. 4.03. Town attorney.
- Sec. 4.04. Chief of police.
- Sec. 4.05. Noninterference by town council.
- Sec. 4.06. Elected officials holding appointed offices.

**\*Editor's note**—Printed herein is the Charter for the Town of Havana, Florida, Ordinance Number 227, adopted May 10, 1989, and adopted by referendum on May 10, 1989 and effective as provided by law. The Town of Havana was originally incorporated by Chapter 5809, Special Acts of 1907. The town was reincorporated by Chapter 9966, Special Acts of 1923. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section.

**State law reference**—Municipal home rule powers act, F.S. ch. 166.

## HAVANA CODE

### **Article V. Transition Schedule**

- Sec. 5.01. Continuation of former Charter provisions.
- Sec. 5.02. Ordinances preserved.
- Sec. 5.03. Rights of officers and employees.
- Sec. 5.04. Terms of elected officers in first election.
- Sec. 5.05. Pending matters.
- Sec. 5.06. Effective date.

**ARTICLE I. GENERAL PROVISIONS****Section 1.01. Creation of powers.**

The Town of Havana, Florida, created by Chapter 9966, Laws of Florida, 1923, shall continue and is hereby vested with the governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services and may exercise any power for municipal purposes not expressly prohibited by the Florida Constitution, general or special law.

**Section 1.02. Corporate limits.**

The corporate limits of the Town of Havana, Florida, are as follows:

Description attached hereto [at the end of this Charter] and made a part hereto and marked exhibit "A."

**Editor's note**—The boundaries were extended by Chapter 11514, Special Acts 1925. Chapter 12821, Special Acts 1927, Chapters 15234, 15235, Special Acts 1931.

**Section 1.03. Power and jurisdiction.**

The power and jurisdiction of the Town of Havana, Florida, shall extend over all lands and over all bodies of water and the air above, to the extent allowed by law within the corporate limits, and to all land without the limits of the town owned, leased or operated by the town. The power and jurisdiction of the town includes all extraterritorial powers and jurisdiction previously granted by Chapter 9966, Laws of Florida, 1923, as amended, or any special or general law.

**Section 1.04. Legislative powers of town.**

The legislative powers of the Town of Havana, Florida, shall be vested in and exercised by the town council, consistent with the provisions of this Charter, the United States Constitution, Florida Constitution and Laws of the State of Florida.

**ARTICLE II. TOWN COUNCIL****Section 2.01. Membership.**

The town council of Havana, Florida, shall consist of seven (7) members who shall be elected from the town at large and hold office until their successors are elected and qualified as provided in this Charter.

**Section 2.02. Qualifications of members.**

(a) Each candidate for nomination and election as a member of the town council shall be a duly qualified elector of the town at the time of qualifying for such office and be otherwise qualified as provided in this Charter and shall remain a resident and domiciled in the town for the term of the office for which he was elected.

(b) The town council shall be the judge of the election and qualification of its own members.

**Section 2.03. Election and term.**

The election of the town council shall be as provided by this Charter, general and special law and ordinances of the town. The terms of the town council members shall be two (2) years beginning on the first day of May after their election. The terms of council members in Groups 1, 2, and 3 are extended to expire on April 30, 2003 rather than December 31, 2002, and the terms of council members in Groups 4, 5, 6, and 7 are extended to expire on April 30, 2004 rather than December 31, 2003.

(Ord. No. 307, § 1, 6-25-02)

**State law reference**—Florida election code, F.S. chs. 97—106.

**Section 2.04. Compensation.**

The compensation of members of the town council shall be set by ordinance.

**Section 2.05. Quorum.**

A majority of the members shall constitute a quorum to transact any business, but a lesser number may adjourn from day to day and compel the attendance of absent members.

**Section 2.06. Vacancies.**

(a) The office of town councilmember shall become vacant upon death, resignation, suspension or removal from office in any manner authorized by this Charter or state law or by forfeiture of office.

(b) A councilmember shall forfeit his office if he lacks at any time during his term of office any qualification for the office prescribed by this Charter or by law. Forfeiture of office shall be declared by a majority vote of the remaining members of the town council.

(c) The town council shall have the power and authority to remove any member of the town council for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform his official duties; upon conviction for a felony; upon conviction for a misdemeanor related to the duties of office; or upon conviction for the commission of any federal felony or misdemeanor.

(d) The town council shall have the power and authority to suspend without pay any member of the council for any cause sufficient for removal, upon arrest for a felony, upon arrest for a misdemeanor related to the duties of office or upon indictment or being informed against for the commission of any federal felony or misdemeanor. If the councilmember is acquitted or found not guilty or is otherwise cleared of the charges which were the basis of the arrest, indictment, or information for which he was suspended under the provisions of this section, the town council shall forthwith revoke the suspension and restore such councilmember to office. He shall be entitled to and be paid full back pay and other emoluments or allowances to which he would have been entitled for the full period of time of his suspension. If during his suspension the term of office of the councilmember expired and a successor is elected, such

back pay, emoluments, or allowances shall only be paid for the duration of the term of office during which the councilmember was suspended under the provisions of this section, and he shall not be reinstated. A suspended councilmember may, at any time before his removal, be reinstated by unanimous vote of the town council in its discretion. No councilmember who has been suspended from office under this section may perform any official act, duty, or function during his suspension; receive any pay or allowance during his suspension; or be entitled to any of the emoluments or privileges of his office during his suspension.

(e) Any such suspension or removal shall occur only after reasonable notice to the town councilmember being considered for suspension or removal and such councilmember shall have been given an opportunity to be heard and present a defense. The accused member shall not be entitled to participate in the deliberations or decision in relation to his suspension or removal. A quorum must be present and voting for the town council to act under this section. For the purpose of this section, a quorum shall consist of four (4) voting members. The town council by a unanimous vote of the members forming the quorum present and taking part in the determination, shall have the authority to suspend a member. A member of the town council shall be removed from the town council upon the unanimous affirmative vote of the members forming the quorum present and taking part in the determination.

(f) The suspension of a councilmember by the town council shall create a temporary vacancy in such office during the suspension. Any temporary vacancy in office created by the suspension of a councilmember under the provisions of this section shall be filled by a temporary appointment to such office for the period of the suspension, not to extend beyond the term of the suspended councilmember. Such temporary appointment shall be made in the same manner and by the same authority as provided by [subsection] (g) or (h) of this section, as applicable.

(g) A vacancy in the membership of the town council, except a vacancy caused by resignation after a recall petition has been filed, shall be filled within ten (10) days after such vacancy occurs by appointment by the mayor, with approval by majority vote of the remaining members of the town council other than the mayor who shall not vote on the appointment of an eligible person qualified to hold such office to serve until the next election which shall be held to fill the vacancy for the unexpired term. *appointed term is same as prior councilman's per Alex Wilson*

(h) If all members of the town council are removed by death, disability or forfeiture of office, the Governor shall appoint an interim town council which shall call a special election and such election shall be held to fill the unexpired terms of each councilmember.

#### **Section 2.07. Mayor and mayor pro tempore selection, powers and duties.**

(a) The members of the town council annually at the first town council meeting after the newly elected members have taken office shall elect by majority vote one (1) of their number as mayor and one (1) of their number as mayor pro tempore.

(b) The mayor shall preside at meetings of the town council and perform such other duties consistent with his office and this Charter as may be imposed by the town council.

(c) The mayor shall be recognized as the official head of the city for all ceremonial purposes and by the courts for the purpose of serving civil processes.

(d) The mayor shall represent the city in agreements with other governmental entities or certifications to other governmental entities and shall execute contracts, deeds and other documents.

(e) During the temporary absence or temporary disability of the mayor, his duties shall be performed by the mayor pro tempore. In the event of the death or removal of the mayor, the mayor pro tempore shall assume the duties of the mayor until the vacancy thereby created shall be filled as per section 2.06 of this Charter.

### **ARTICLE III. ELECTIONS\***

#### **Section 3.01. Group designations for qualification and election.**

The membership of the town council is divided into seven (7) groups. Three (3) members comprising Group 1 through Group 3 shall be elected at large at a town general election on the day designated by ordinance to be held in odd numbered years and four (4) members comprising Group 4 through Group 7 shall be elected at large at the town general election to be held in even numbered years. Every person qualifying as a candidate for election to the town council shall qualify in a specific group which the candidate shall designate at the time of his qualification and each seat on the town council shall be filled by the candidate receiving a majority of the votes in the group in which he qualified. In the event no candidate receives a majority of the votes in the group, there shall be a runoff election between the two (2) candidates in the group receiving the highest number of votes. Such runoff election shall be called by the town council and held within one (1) month after the town general election. (Ord. No. 311, § 1, 2-25-03)

#### **Section 3.02. Date and conduct of elections.**

(a) The town council shall provide by ordinance for the holding of general and special elections, the date for the general election, the return and canvassing of results of the election and the appointment of clerks and inspectors of the election.

(b) Elections shall be conducted pursuant to this Charter, state law and ordinances of the town.

#### **Section 3.03. Nonpartisan elections.**

All nominations and elections to the town council shall be nonpartisan without regard for or designation of political party affiliation of any nominee.

**\*State law reference—**Florida election code, F.S. chs. 97—106.

**Section 3.04. Nominations.**

Candidates for the town council shall be nominated for such office by the filing of a written notice of candidacy for a specific group number at such time and in such manner as may be prescribed by ordinance.



**Section 3.05. Form of ballot.**

The town council by ordinance shall prescribe the form of the ballot including the method for listing candidates for town council.

**ARTICLE IV. ADMINISTRATIVE****Section 4.01. Town manager.**

There shall be a town manager who shall be the chief administrative officer of the town. The town manager shall be responsible to the town council for the administration of all town affairs placed in the town manager's charge by this Charter or by ordinance. The town council shall appoint the town manager for an indefinite term by a majority vote of all the councilmembers. The town council may remove the town manager as provided by ordinance. The qualifications, powers and duties of the town manager shall be prescribed by ordinance.

**Section 4.02. Town clerk.**

There shall be a town clerk who shall be appointed for an indefinite term by the town manager and approved by the town council. The qualifications, powers and duties and removal of the town clerk shall be as prescribed by ordinance.

**Section 4.03. Town attorney.**

There shall be a town attorney who shall be appointed for an indefinite term by the town manager and approved by the town council. The qualifications, powers and duties and removal of the town attorney shall be as prescribed by ordinance.

**Section 4.04. Chief of police.**

There shall be a chief of police who shall be appointed for an indefinite term by the town manager and approved by the town council. The qualifications, powers and duties and removal of the chief of police shall be as prescribed by ordinance.

**Section 4.05. Noninterference by town council.**

(a) Except as provided in this Charter, the town council or any of its members shall not in any manner dictate the appointment or removal of town administrative officers or employees whom the town manager or any of his or her subordinates are empowered to appoint, but the town council may express its views and fully discuss with the town manager anything pertaining to appointment and removal of such officers and employees.

(b) Except as provided in this Charter and except for the purpose of inquiries and investigations, the town council or its members shall deal with town officers and employees who are subject to the direction and supervision of the town manager solely through the town manager, and neither the town council nor its members shall give orders directly to any such officer or employee, either publicly or privately. Nothing in the foregoing is to be construed to prohibit

individual members of the town council from closely scrutinizing all aspects of town government operations to assist the councilmembers in the formulation of sound policies to be considered by the town council. It is the express intent of this Charter that recommendations for improvement in government operations shall be made by the town council collectively to and through the town manager. Violation of this provision may be grounds for forfeiture of office.

**Section 4.06. Elected officials holding appointed offices.**

No former elected city officer shall hold any compensated appointive city office or employment until one year after the expiration of the term for which the officer was elected.

**ARTICLE V. TRANSITION SCHEDULE**

**Section 5.01. Continuation of former Charter provisions.**

All provisions of the former Charter, as amended by special law or otherwise which are not embraced herein and which are not inconsistent with this Charter [and] which were not repealed or made ordinances by section 166.021, Florida Statutes, shall become ordinances of the town subject to modification or repeal in the same manner as other ordinances of the town council.

**Section 5.02. Ordinances preserved.**

All ordinances in effect upon the adoption of this Charter, to the extent they are not inconsistent with this Charter, shall remain in force until repealed or changed.

**Section 5.03. Rights of officers and employees.**

Nothing in this Charter except as otherwise specifically provided herein shall affect or impair the rights or privileges of persons who are officers or employees at the time of adoption of this charter. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected as provided herein.

**Section 5.04. Terms of elected officers in first election.**

The town election to fill the vacancies in Groups 3 through 7 shall be held under the provisions of this Charter in the year 1989 to succeed the five (5) members whose terms expire January 1, 1990, except that the election to fill the vacancy in Group 3 shall be for a term of one (1) year and Groups 4 through 7 shall be for a term of two (2) years. The election to fill the vacancies in Groups 1 through 3 to succeed the three (3) members whose terms expire January 1, 1991, shall be held under the provisions of this Charter in the year 1990.

**Section 5.05. Pending matters.**

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the town shall continue except as modified pursuant to the provisions of this Charter.

**Section 5.06. Effective date.**

This charter shall become effective when approved by the voters and filed in the manner prescribed by law.

**EXHIBIT "A"**

Begin at a point at the Southeast corner of the Northeast quarter of the Southwest quarter of Section Thirty-five, thence, run North one and one-half miles to the Northeast corner of the Southeast quarter of the Northwest quarter of Section Twenty-six, thence, run West one and one-quarter miles to the Northwest corner of the Southeast quarter of the Northwest quarter of Section Twenty-seven, thence, run South one and one-half miles to the Southwest corner of the Northeast quarter of the Southwest quarter of Section Thirty-four, thence run East one and a quarter miles to the point of beginning, in Township Three North, Range Two West, Gadsden County, State of Florida.

