

## **Proposed Amendments to the Charter of the City of Avon Park**

If any individual requires assistance reading or accessing this document, please contact the City Clerk by telephone at 863-452-4405 or email at [mcortazal@avonpark.cc](mailto:mcortazal@avonpark.cc).

Below you will find the current charter of the City of Avon Park, with additions and deletions noted. The City Council, from time to time, proposes amendments to the charter.

The citizens of the City of Avon Park have the right to express their views on the proposed amendments. To that end, the city's citizens may review the amendments to the charter in this document. The citizens may attend one or both of two city council meetings when the amendments will be discussed. The first meeting is scheduled for June 10, 2019. The second meeting is scheduled for June 24, 2019. Both meetings begin at 6 p.m. All meetings of the City Council take place in the Council Chambers, which is located at 123 East Pine Street, which is directly behind City Hall. Citizens may contact the council members by email. Each council members' email is listed immediately below:

Garret Anderson, Mayor, [ganderson@avonpark.cc](mailto:ganderson@avonpark.cc)  
James Barnard, Deputy Mayor, [jbarnard@avonpark.cc](mailto:jbarnard@avonpark.cc)  
Brenda Gray, Council Member, [bgray@avonpark.cc](mailto:bgray@avonpark.cc)  
Maria Sutherland, Council Member, [mtsutherland@avonpark.cc](mailto:mtsutherland@avonpark.cc)  
Stanley Spurlock, Council Member, [sspurlock@avonpark.cc](mailto:sspurlock@avonpark.cc)

The citizens of the City of Avon Park will have to approve or reject the amendments at the General Election on November 5, 2019. Citizens can keep abreast of developments by reading the local newspaper, listening to local news radio programs, or visiting the city's website at <http://www.avonpark.cc/>

## **The Charter of the City of Avon Park, with Amendments Noted**

### **PART I - CHARTER AND RELATED LAWS Subpart A - CHARTER**

#### **ARTICLE I. - CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY, AND POWER**

Sec. 1.01. - Corporate existence, form of government, and Charter.

The City of Avon Park in Highlands County, Florida, which was created by the Florida Legislature, shall continue as a municipal corporation with a council-manager form of government with this document as the Charter for the City.

Sec. 1.02. - Description of corporate boundary.

The area described in Appendix A of this Charter shall constitute the corporate boundary of the

City of Avon Park, along with updates on file with the city clerk. Appendix A may be amended from time to time by Ordinance of the City Council.

Sec. 1.03. - General powers of city.

The city shall have all 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 except as expressly prohibited by law or this Charter.

Sec. 1.04. - Construction.

The powers of the city shall be construed liberally in favor of the city, limited only by the constitution, general and special law, and specific limitations in this Charter.

## ARTICLE II. - CITY COUNCIL

Sec. 2.01. - Composition of city council.

There shall be a city council of five members elected at large by the electors of the city, one of which shall be elected as mayor-councilmember. Only qualified electors of the city with a minimum of one year of residency within the city limits as of the qualifying deadline shall be eligible to be members of the city council.

Sec. 2.02. - Election and terms.

The regular election of city councilmembers shall be held on the first Tuesday after the first Monday in November of each year in the manner provided in Article IV of this Charter and shall be for a term of three years. No election shall be required to be held if the number of vacancies to be filled at the election is equal to or greater than the number of duly qualified candidates for councilmembers.

Sec. 2.03. - Compensation of council. [In this section (2.03) the word “compensation replaces “salary”]

The mayor and other members of the city council shall each receive a monthly salary compensation as established by ordinance. The mayor's salary compensation shall be not less than 25% greater than the councilmembers' salary compensation to reflect additional time necessary for the mayor's duties.

Sec. 2.04. - Mayor.

The office of mayor shall be filled by election by the qualified voters of the City of Avon Park. The mayor shall preside at the meetings of the city council and is to be considered a full member of the council with privilege of debate, motions, and voting. The mayor shall be recognized as head of the city government for service of process, all ceremonial purposes and shall, when directed to do so by the council, execute all instruments to which the city is a party, unless otherwise provided by this Charter or by ordinance, but shall have no regular administrative duties nor veto power.

The city council shall elect a deputy mayor from among its members, who shall act as mayor during the temporary absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the completion of the unexpired term, and their council seat shall become vacant and filled as provided in section 2.07. In the temporary absence of the mayor and deputy mayor the remaining councilmembers shall select a mayor pro tempore. In the event that there is a vacancy in both the mayor and deputy mayor positions, then the council shall select a mayor to serve in that capacity until the next election. A mayor pro tempore or deputy mayor designate may refuse

such office, or once in office may resign from such office and remain on the council as a member during their term of office as councilperson.

Sec. 2.05. - General powers of city council.

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

Sec. 2.06. - Limitation on powers of city council and councilmembers.

(a) Neither the council nor any of its members including the mayor, individually or collectively, shall, in any manner, dictate the appointment or removal of any city department heads or employees whom the manager or any of the manager's subordinates are empowered to appoint, however, ~~the council~~ councilmembers may, at an open meeting, express ~~its~~ their views and fully and freely discuss with the manager, anything pertaining to appointment and removal of such officers and employees, including possible removal. [Begin Deletion Here.] ~~The council and its members shall deal with officers and employees of the city who are subject to direction and supervision of the manager, solely through the manager, and neither the council nor any of its members shall give orders to any such officers or employees, either publicly or privately, directly or indirectly. Nothing in the foregoing is to be construed to prohibit the individual members of the council from meeting with the manager and scrutinizing, by questions and personal observations, all aspects of the city government operations so as to obtain independent information to assist the members in the formulation of such policies to be considered by the council. However, it is the expressed intention hereof that recommendations for improvement in city operations by individual councilmembers be made only to and through the manager.~~ (b) Any violation of a provision of this section by a member of the council shall constitute grounds for removal of office. [Deletion Ends Here.]

[Addition Begins Here.] (b) Except for the purpose of evaluation and information, the city council and its members shall deal with city employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city council nor any of its members shall give orders to any such employee, either publicly or privately, directly or indirectly. Nothing in the foregoing is to be construed to prohibit individual members of the city council from scrutinizing all aspects of city government operations by questions of employees and officers or personal observation of city business, meetings and other activities, where such questions and observations do not substantially disrupt city business, so as to obtain independent information to assist the city council members in the formulation of sound policies to be considered by the council. However, it is the expressed intention hereof that any recommendations for improvement in city operations by individual councilmembers be made to and through the city manager and questioning of officers and employees is not done in a manner that undermines the authority of the City Manager or the Manager's subordinates.

(c) Any violation of a provision of this section by a member of the city commission may constitute grounds for removal from office by recall in accordance with Florida law. [Addition Ends Here.]

Sec. 2.07. - Vacancies, filling of vacancies.

(a) Vacancies. The office of councilmember shall become vacant in accordance with general law or may become vacant by majority vote of the council if a councilmember is absent from four consecutive regular council meetings without being excused by council prior to the fourth consecutive absence. (b) Filling of vacancies. A vacancy on the council, except the mayor's seat, shall be filled by a majority vote of the remaining members of the council, unless at the time of

the vacancy there is less than six months remaining before the next regular election of city councilmembers, in which case the council shall have the discretion to leave the seat vacant until the next regular election of city councilmembers. Any person appointed by the council to fill a vacancy shall hold office until the next regular election of city councilmembers. A person then elected to fill that vacancy shall serve the remaining term of that vacant seat. If at any time the membership of the council is reduced to less than a quorum, the remaining member or members may by majority vote appoint additional members in conformity with this section or shall call for a special election to be held; or failing to agree on new members within thirty (30) days of losing a quorum, the Clerk shall set a date for a special election to be held, within 60 days from the date of the vacancy which reduced the council to less than a quorum or such subsequent date as soon as elections may reasonably be held. In the event that all seats on the council become vacant, the governor shall appoint an interim council which shall serve until the next regular election.

Sec. 2.08. - City council meetings.

(a) Time and place. The council shall meet regularly at least once a month at such times and places as the council may prescribe by ordinance. Special meetings may be held at the call of the mayor, or, in the mayor's absence at the call of the deputy mayor, or at the request of a majority of the councilmembers; and, except in emergencies, shall provide for not less than 48 hours of notice to each member and the public. The first regular meeting of the council after each election has been certified shall be an organizational meeting scheduled by the City Clerk. At this organizational meeting the newly-elected councilmembers shall be inducted into office, and the deputy mayor shall be chosen. (b) Quorum. A majority of the full council shall constitute a quorum. No action of the council, except as provided in section 2.07, shall be valid unless adopted by the affirmative vote of a majority of members of the council present. (c) Voting. Voting on ordinances and resolutions shall be by roll call and shall be recorded by the city clerk. (d) Rules. The council shall determine its own rules and order of business.

### ARTICLE III. - CITY OFFICERS

Sec. 3.01. - Designation.

The city council members, mayor, city manager, and city attorney are the officers of the city government.

Sec. 3.02. - Appointment.

The city manager and city attorney shall be appointed by the council and shall serve at the pleasure of the council subject to the provisions of section 3.03 of this article.

Sec. 3.03. - Removal.

An affirmative vote by not less than three (3) members of the council at any meeting shall be required to remove the city manager or city attorney.

Sec. 3.04. - City manager—Powers and duties.

(a) Employees and Employment. The city manager when necessary shall hire, suspend, demote, or dismiss any city employee under the manager's jurisdiction in accordance with law and the personnel rules approved by resolution of the council, and may authorize any department head to exercise these powers with respect to subordinates in that department. [Addition Begins Here.]

(b) Departments. Except for the Police and Fire Departments, the existence of which shall be the sole purview of the city council, [Addition Ends Here.] The city manager shall create and discontinue any department or division in the city administration that the city manager deems necessary for the good of the city. The city manager shall approve no employment agreements, nor commit the city to any special terms of employment.

(c) [Deletion Begins Here.] ~~City Chief Executive Officer~~ [Deletion Ends Here.] [Addition Begins Here.] Administrative Head of City. [Addition Ends Here.] The city manager shall be the [Deletion Begins Here.] ~~city's chief executive officer~~ [Deletion Ends Here.] [Addition Begins Here.] administrative head of the city [Addition Ends Here.] and shall direct and supervise the administration of all departments of the city except the office of city attorney and shall attend all council meetings unless excused by council and shall have the right to take part in discussions, but not vote.

(d) Enforcement of City Laws. The city manager shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the council subject to enforcement by the city manager are faithfully executed and shall act as the city's director of emergency management with all of the authority of that position either granted by the city's emergency management plan, the city council, [Addition Begins Here.] general city code, or [Addition Ends Here.] state law, [Deletion Begins Here.] ~~city or county ordinance.~~ [Deletion Ends Here.]

(e) Budgeting and Finance. The city manager shall prepare and submit for approval 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 city and shall make such recommendations to the council concerning the affairs of the city as the manager deems appropriate. The city manager shall approve no expenditures nor commit the city to expenditures or contingency expenditures not authorized by ordinance, resolution, or vote of the council.

(f) Continuity of Office. The city manager shall designate a city employee as assistant city manager to exercise the powers and perform the duties of acting city manager during any temporary absence or disability of the city manager, or such period between the time when the office of city manager becomes vacant and when an interim city manager or city manager is appointed by the council. [Addition Begins Here.] Such manager designation shall be subject to the approval of the Council. [Addition Ends Here.] The council shall appoint a city manager or an interim city manager within a reasonable time of the office of city manager becoming vacant.

#### Sec. 3.05. - City clerk—Powers and duties.

The city clerk shall give notice of all city meetings to the councilmembers and the public as required by law and shall attend all such meetings in person or by a city manager designee and shall keep minutes of the proceedings. The city clerk shall authenticate by signature and shall be custodian of this Charter, all ordinances, resolutions, and other city documents and shall perform such other duties as required by law or by the council. The city clerk shall be the supervisor of elections for the city.

#### Sec. 3.06. - City attorney—Powers and duties.

The city attorney shall be a member of the Florida Bar and shall be the legal advisor to the City of Avon Park. The city attorney or assistant city attorney shall attend all city council meetings unless

excused and shall perform such professional duties as may be required by law or by the council. The city attorney when necessary shall appoint, suspend, demote, or dismiss any employee in the office of the city attorney in accordance with law and the personnel rules of the city. The city attorney shall prepare an annual budget for the operation of the office of the city attorney and shall submit this budget to the city manager for inclusion in the annual city budget in accordance with uniform city procedures. If a private attorney is retained to serve as city attorney by contract, the manager or designee shall prepare the budget for legal expenses .[Addition Begins Here.]

**Sec. 3.07. – Employment Contracts.**

Only the city council is authorized to provide employment contracts to any person. Such contracts shall be drafted by the city attorney or other attorney approved to do so by the council and may be offered to prospective officers, department heads and key employees if the circumstances justify it, but shall not be provided to officers, department heads and employees already in the city's employ. Any employment contract providing more than two (2) months of severance or terminating in more than five (5) years must be approved by a vote of not less than four (4) councilmembers. [Addition Ends Here.]

**ARTICLE IV. - ELECTIONS**

**Sec. 4.01. - Electors.**

Any person who is a resident of the city who has qualified as an elector of this state, and who registers in the manner prescribed by law, shall be an elector of the city.

**Sec. 4.02. - Nonpartisan elections.**

All elections for the office of city councilmember shall be conducted on a nonpartisan basis without any designation of political party affiliation.

**Sec. 4.03. - Qualifying.**

Candidates for office of city councilmember shall qualify by filing a written notice of candidacy with the city clerk at such time and in such manner as may be prescribed by ordinance and state statutes. All persons seeking to qualify as candidates for election to the office of mayor or city council must be a legally qualified elector of the City, and must have maintained residency in the City for at least the one year immediately prior to the date of qualification for office [Addition Begins Here.] and must maintain city elector status and physical residency in the city throughout their candidacy and term(s) of office.[Addition Ends Here.] [Deletion Begins Here.]

~~In addition, any person seeking an elective office in said city shall be current in payment to said city of all taxes, occupational licenses and utility bills, and shall not have any outstanding code enforcement violation which has been adjudicated against them or their property pursuant to law.~~

[Deletion Ends Here.]

**Sec. 4.04. - Form of ballots.**

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

**Sec. 4.05. - Schedule, notice and conduct of elections.**

(a) The government of said city shall be vested in a city council including a mayor-councilperson, to be called the "City Council of the City of Avon Park," consisting of five (5) members, elected from the City at large, whose terms of office shall be fixed as hereinafter provided and whose compensation shall be fixed by ordinance and shall not be changed during their terms of office. The term of city councilmembers and mayor-councilperson shall be three (3) years. Whenever

possible, regular elections shall be held on a date and time coinciding with national elections. (b) All elections shall be resolved by the highest vote getter(s) being awarded the seat(s) open for election. (c) One (1) member shall be elected as mayor at the regular election along with one (1) other councilmember every third year commencing with the election of the mayor's seat and one councilmember seat in November, 2013. The remaining three (3) councilmember seats previously elected in November 2012 shall be elected every third year commencing with the election of the three (3) councilmember seats at the elections of November, 2015. In the event any or all of the three (3) city councilmembers not standing for election during the years when the mayor - councilperson candidate shall be elected should choose to run for said position, then and in that event, they shall submit their resignation from the city council effective not less than ten (10) days prior to the first day of qualifying for the office of mayor-councilperson, and the(ir) seat(s) shall be declared vacant for purposes of the regular election. In the event of such vacancies created by the resign to run requirement above, the vacancy(ies) shall be filled for the period up to the election, by appointment by the remaining member(s) of the Council, and the next highest vote-getter(s) in said election shall occupy said seat(s) for the unexpired portion of their term, with the highest vote getters receiving the seats with the longest remaining terms. (d) Referendums shall be conducted as provided by state law and city ordinances.

Sec. 4.06. - City canvassing board.

The city canvassing board shall be composed of the councilmembers not running for office in that election, and any other person appointed by the council to serve at that election cycle such that the canvassing board has not less than three (3) nor more than five (5) members. In the event that less than three (3) members appear at the appointed time and place for canvassing, the city clerk, city attorney or city manager may serve as an alternate. The board shall meet at a place and time designated by the County Supervisor of Elections or otherwise in accordance with law and this Charter, and shall proceed to publicly canvass the absentee electors' ballots and then publicly canvass the vote as shown by the returns then on file in the office of the County Supervisor of Elections. The board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the city clerk.

Sec. 4.07. - When councilmembers assume office.

The councilmembers elected shall assume their respective offices at the first regular meeting of the council after the results of each election have been certified.

Sec. 4.08. - Recall.

Any member of the city council may be removed from office by the electors of the city following the procedures for recall established by general law. Procedures not inconsistent with state law may be established by ordinance.

## ARTICLE V. - GENERAL PROVISIONS

Sec. 5.01. - Charter amendments.

This Charter may be amended in accordance with the provisions for charter amendments as provided by law. The form, content, and certification of any petition to amend shall be established by ordinance.

Sec. 5.02. - Oath of officers.

After election or appointment and before taking office each officer of the city 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 Avon Park; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter so help me God."

Sec. 5.03. - Budget adoption.

The council shall adopt an annual budget for the city by ordinance **[Addition Begins Here.]** resolution as provided by city code **[Addition Ends Here.]** before October 1 of each year, or otherwise in accordance with state statutes. An ordinance or resolution adopting an annual budget shall constitute appropriations of the amounts specified as expenditures from the funds indicated and shall constitute a levy of the property tax proposed.

Sec. 5.04 - ~~[Deletion Begins Here.]~~ **Investigations.** **[Reserved]**

~~The council may conduct investigations into the affairs of the city and the conduct of any city department, office or agency and may retain the services of another law enforcement agency or licensed investigator for that purpose. For the purposes of the investigation, the city council may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Except as otherwise provided by law, any person who refuses to cooperate with investigator(s) may be subject to removal from office or employment. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor.~~  
[Deletion End Here.]

Sec. 5.05. - Pending matters.

No rights, claims, actions, contracts, or legal or administrative proceedings existing on the effective date of this Charter and involving the city shall be affected by the adoption of this Charter, including the number of intoxicating beverage licenses which the city may be presently allowed by law.

Sec. 5.06. - Severability.

If any section, paragraph, subdivision, clause, sentence, or provision of this Charter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Charter, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered, unless it clearly appears that such other part is wholly or necessarily dependent for its operation upon the part held to be unconstitutional or invalid.

Sec. 5.07. - Effective date.

This Charter shall become effective immediately upon passage.