

CITY OF SANIBEL  
DRAFT ORDINANCE 24-011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, TO ALLOW THE CITY COUNCIL GREATER FLEXIBILITY IN DETERMINING INTERIM COUNCIL MEMBER APPOINTMENTS AND ANY NECESSARY SPECIAL ELECTION FOLLOWING A VACANCY IN ITS MEMBERSHIP BY AMENDING THE CITY'S CHARTER, ARTICLE III, LEGISLATIVE, SECTION 3.07, VACANCIES, FORFEITURE OF OFFICE; FILLING OF VACANCIES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERANCE; PROVIDING FOR REFERENDUM; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, current provisions in the City Charter are rigid in mandating interim Council Member appointment following a vacancy in its membership; and

**WHEREAS**, current provisions in the City Charter are also rigid regarding the timing of when to set a special election to fill a vacancy in City Council membership following a vacancy, to the extent a special election is necessary; and

**WHEREAS**, the City Council desires flexibility in determining when or if to make an interim Council Member appointment following a vacancy in its membership and in scheduling any necessary special election to elect a new Council Member.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:**

**SECTION 1.** The recitals above are true and correct and made a part hereof.

**SECTION 2.** The Sanibel Code of Ordinances, specifically the Charter, is hereby amended with ~~striketrough~~ language indicating deletions and underlined language indicating additions as follows:

**CHARTER**

...

**ARTICLE III. - LEGISLATIVE**

...

**Sec. 3.07. – Vacancies, forfeiture of office; filling of vacancies.**

- (a) *Vacancies.* The office of a council member shall become vacant upon death, incapacitation due to long-term illness, resignation, removal from office in any manner authorized by law, or forfeiture of the council member's office.
- (b) *Forfeiture of office.* A council member shall forfeit office if he or she:
  - (1) Lacks at any time during the term of office any qualifications for the office prescribed by this Charter or by law;
  - (2) Violates any standard of conduct or code of ethics established by law for public officials; or

- (3) Is absent from three (3) consecutive regular council meetings without being excused by the council.
- (c) *Filling of vacancies.* A vacancy on the council shall be filled in one of the following ways:
- (1) If there is less than six (6) months remaining in the unexpired term or if there is less than six (6) months before the next regular city election, the council, by a majority vote of the remaining members, may ~~shall~~ choose a successor to serve until the newly elected council member is qualified. If two (2) years remains in the term of the vacated seat at the time of the next regular election, that seat shall be filled by election for the remaining two (2) years; or
  - (2) If there is more than six (6) months remaining in the unexpired term and no regular city election is scheduled within six (6) months, the council may ~~shall~~ fill the vacancy on an interim basis as provided in (1), and shall schedule a special election to be held not sooner than one hundred twenty (120) days, nor more than two hundred ten (210) ~~one hundred fifty (150)~~ days following the occurrence of the vacancy. If a run-off election is necessary, it shall be scheduled two (2) weeks following the election.

Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members under either (1) or (2) above.

- (c) *Extraordinary vacancies.* In the event that three (3) or more vacancies occur on the council, for whatever reason and by whatever cause, the governor shall appoint interim council members to fill the vacancies who shall call a special election as provided in (c) above, and such election shall be done in the following manner: Qualification of candidates shall be in accordance with section 5.03, and the election held in accordance with section 5.04 of the Sanibel City Charter. Council members elected shall, by lot at their first meeting, determine which shall serve for the two-year terms open and which for the four-year terms open.

**SECTION 3.** Codification. The City Manager is hereby authorized and directed to indicate these amendments in future City Code publications.

**SECTION 4.** Conflict. All ordinances and parts of ordinances in conflict herewith shall be and the same hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed, and the remainder shall have full force and effect and be liberally construed.

**SECTION 5.** Severance. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

**SECTION 6.** Referendum. Upon passage of this ordinance initiating a Charter amendment, the proposed amendment shall be placed to a vote of the electors at the next general election held within the City for which the City can meet any advertising or other timing constraints of the Lee County Supervisor of Elections.

**SECTION 7.** Effective date. This ordinance shall be effective immediately upon passage of a vote of the “electors” of the city as defined in Sec. 5.01, Sanibel Charter, to wit: a “person who is a resident of the city, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and ordinance of the city.”

**FIRST READING THIS 16TH DAY OF JULY 2024.**

**SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, THE 20TH DAY OF AUGUST 2024.**

Attest:

\_\_\_\_\_  
Scotty Lynn Kelly, City Clerk

\_\_\_\_\_  
Richard Johnson, Mayor

Approved as to form and legality:

\_\_\_\_\_  
John D. Agnew, City Attorney

Date filed with City Clerk: \_\_\_\_\_

Vote of Council Members:

Johnson	_____
Miller	_____
DeBruce	_____
Henshaw	_____
Smith	_____

First Reading: July 16, 2024  
Publication Date: \_\_\_\_\_  
Second Reading: \_\_\_\_\_