

OGC CHARTER RECOMMENDATIONS VERSION 3

COUNCIL ORDINANCES

It is recommended that Part 1 of Article 7 be moved to Article 6 and that Part 2 be renamed as its own General Counsel article.

Section 7.201. Office established; general responsibility.

There is established ~~a department~~ an office of the City of Jacksonville to be known as the Office of General Counsel, which shall have the responsibility for furnishing legal services to the city and its independent agencies, except that the council may create an office of legislative counsel within the legislative branch whose purpose shall be to advise and assist the council and its committees and members in the achievement of a clear, faithful and coherent expression of legislative policies and to perform such other related duties for the council as the council may by ordinance direct. For purposes of utilization of central services by the city and its independent agencies, the services of the office of general counsel shall be deemed to be central services or services of the central service department, as the case may be. The general counsel shall provide to any member of the Duval County legislative delegation who resides in Duval County upon request an opinion on any matter relative to the government of the City of Jacksonville or any of its independent agencies.

The engagement of private counsel for the city shall require written certification by the general counsel of its necessity, and shall be in accordance with procedures set forth by the council.

The engagement of private counsel for the independent agencies shall require written certification by the general counsel of its necessity, and shall be in accordance with their respective charters.

The general counsel may hire, and shall supervise, assistant counsel to assist with the core mission issues of the independent agencies. Those assistant counsel may, in a manner coordinated between the general counsel and the independent agency, be housed, budgeted and paid directly by the independent agency.

Section 7.202. General counsel.

The head of the office of general counsel shall be the general counsel who shall be the chief legal officer for the entire consolidated government, including its independent agencies. The general counsel shall devote his/her entire time and attention to the business of the office, ~~and shall not engage in the private practice of law, and shall not engage in any~~ other legal or non-legal activities to supplement income except for private investments. Any legal opinion rendered by the general counsel shall constitute the final authority for the resolution or interpretation of any legal issue relative to the entire consolidated government and shall be considered valid and binding in its application unless and until it is overruled or modified by a court of competent jurisdiction or an opinion of the Attorney General of the State of Florida dealing with a matter of solely state law involvement or concern.

The general counsel shall devote necessary resources and attention to all of its constituent elected officials, departments and agencies and shall make legal decisions on the merits for the consolidated government without preference to any official or agency. The general counsel shall work with its constituent elected officials, departments and agencies to advise them on new or existing state laws interfacing their duties and responsibilities, as well as related standing ordinances and resolutions, and to educate them with regard to conflicting legal issues and to assist them in amicably resolving them.

Section 7.203. Selection and term of general counsel.

The general counsel shall be an attorney licensed to practice law in the State of Florida and shall have at least ~~5~~ 10 years' experience ~~as a practicing attorney or judge in the practice of law.~~ The general counsel shall be selected according to the following procedure. Upon the commencement of each mayoral term of office, the mayor shall ~~appoint a selection committee comprised of five attorneys licensed to practice in the State of Florida. No more than two of the members of this~~

committee shall be former general counsels of the city. The mayor shall endeavor to appoint two former general counsels to the committee, but in the event either or both refuse to serve, then the mayor shall appoint an attorney licensed to practice in the State of Florida to serve in the stead of either or both. The selection committee shall receive applications and may consider applicants of its own choosing. The committee shall select three qualified and available candidates to serve as general counsel and shall recommend these three to the mayor who shall select one to serve as general counsel. In the event that the mayor refuses to select one of the three as recommended, then the committee shall conduct another search and recommend an additional three candidates to the mayor. This procedure shall continue until the mayor has made his selection, giving due consideration for the needs of all city branches, agencies, and offices, appoint a general counsel for the consolidated government for that mayoral term. The person selected to serve as general counsel by the mayor shall be confirmed by resolution approved by no less than 13 members of the council elected for that mayoral term. Prior to confirmation, the council may seek the advice of constitutional officers, the Jacksonville Bar Association and former general counsels as to the qualification of the appointee to serve as general counsel. The Mayor's appointment shall be acted upon by the Council within 60 days. The term of the general counsel shall coincide with the term of the appointing mayor that appointed him.

Section 7.204. Reappointment.

A general counsel may be reappointed by a newly elected mayor or by a mayor elected to serve a succeeding term of office. The reappointment of a general counsel shall be confirmed by resolution approved by no less than 13 members of the council elected for the succeeding mayoral term. Any general counsel who is reappointed by the mayor but who fails to receive the confirmation of council may, at the option of the mayor, continue to serve for a period of 6 months 60 days pending reconfirmation. Council shall confirm or reject said reappointment within 60 days of the commencement of the new term, subsequent to the refusal of the council to confirm him. The mayor may resubmit the general counsel to the council for confirmation at any time during this 6-month period. In the event the general counsel is not confirmed by the council, then the position of general counsel shall become vacant and shall be filled according to the provisions of section 7.203. *and 7.205*

Section 7.205. Vacancy.

A vacancy occurring 1 year or less before the expiration of the mayoral term shall be filled by an acting general counsel appointed by the mayor and confirmed by the council. A vacancy occurring more than 1 year before the expiration of the mayoral term shall be filled in the manner provided in section 7.203.

Vacancies in the position of general counsel shall be filled as follows:

(a) An "acting" general counsel shall immediately be appointed, in writing, by the mayor, without the necessity of council confirmation, so as to ensure the continued faithful operation of the office of general counsel. The person serving as "acting" general counsel shall perform all duties of the section 7.202 general counsel, but shall not serve in the "acting" position for a period exceeding 60 days.

(b) A new section 7.202 general counsel shall be appointed and confirmed as provided for in Section 7.203.

No resigning or retiring general counsel shall remain on the payroll of the city beyond the time he or she discontinues performing the official duties of the general counsel.

Section 7.206. Removal.

(a) The general counsel may be removed by the mayor, but such removal shall be only for cause misfeasance, malfeasance or criminal conduct. The removal of a general counsel by the mayor for cause shall be concurred in by a majority of the membership by resolution of the council approved by 13 members of the council.

(b) The general counsel may also be removed by the council, but such removal by the council shall be only for misfeasance, malfeasance or criminal conduct. The removal of a general counsel by the council shall be by resolution of the council approved by 15 members of the council.

Section 7.207. Assistant counsels.

The general counsel shall appoint assistant counsels and fix their compensation, subject to the approval of the mayor. The assistant counsels shall devote their entire time and attention to the business of the office and shall not engage in the private practice of law or any other legal or non-legal activities to supplement income except for private investments.

Section 7.208. Corporation secretary.

Subject to applicable civil service laws and rules, the general counsel shall designate ~~one of his employees~~ an attorney within the office of general counsel to serve as corporation secretary.

Section 7.209. Duties of corporation secretary.

The corporation secretary shall be responsible for the custody and safekeeping of such records of the executive office of the mayor as the mayor shall designate and for the performance of such additional duties as may be delegated ~~to him~~ by the mayor. The corporation secretary is authorized and entitled to keep ~~in his possession~~ of a duplicate official seal of the city and to affix the seal on all papers and documents necessary to be executed by the mayor and on all certified copies of public records of which he or she has custody.

Section 7.210. Litigation imprest fund.

There is authorized to be established in the office of general counsel, in the custody of the general counsel, a litigation imprest fund of not exceeding \$~~500~~ 2,500, which shall be available, without regard to fiscal years, for the expenses of litigation conducted or defended by the office of general counsel, including filing fees for actions commenced by the city or an independent agency in a state or federal court and for appeals taken by the city or an independent agency, witness fees required to be tendered to persons subpoenaed on behalf of the city or an independent agency, fees for service of process for designated agents within the city and for the several sheriffs of designated agents in other counties of the state or elsewhere, the reproduction or acquisition of necessary documentary evidence not in the official possession of the city or an independent agency to be used at a deposition, hearing, or trial, and similar expenses directly related to cases in litigation, but not including fees for special counsels or the payment of a monetary judgment against the city or an independent agency. The litigation imprest fund shall be maintained as a checking account in a bank located in the city and the general counsel shall prescribe rules for the withdrawal of funds from this checking account, including a requirement that checks be signed by at least two individuals in the office of general counsel. Periodically, as determined by the general counsel, a statement of the disbursements from the litigation imprest fund shall be presented to the city accountant, with such supporting documents as the city accountant requires, for reimbursements of the fund. Bank service charges shall be a proper expense item of the litigation imprest fund.

ARTICLE 5 CITY COUNCIL

Section 5.08. Procedures.

The council shall meet regularly at least once in every month at such times and places as the council may prescribe. Special meetings may be held on call of the mayor or the president of the council, or seven or more members of the council, upon no less than 24 hours' notice to each member of the council. Fourteen members of the council shall constitute a quorum. The council may take official action only by the adoption of ordinances or resolutions, and no ordinance or resolution shall be passed until it has been read on 3 separate days, unless it is adopted as an emergency measure, or the council authorizes by two-thirds vote of the members to have 2 readings, as provided in the City Council Rules, so long as the ordinances and resolutions so passed shall be enacted or adopted in the manner provided by general law. The council shall determine

its own rules and order of business, keep a journal of its proceedings and annually select a president and a president pro tempore from its members. All ordinances of the council governing the consolidated government, or providing rules and regulations of general applicability, and waivers thereof, shall be in the form of a codification in the city's published ordinance code; except that such codification shall not be required for the annual budget, the annual capital improvement plan, appropriations, or land use exceptions and variances.