

City of Mandeville Home Rule Charter
Working Draft of Potential Substantive Changes

Prepare 4/14/14 by Butler Snow LLP

Legend:

Potential deletions are shown as ~~strikeout text~~.

Potential additions are shown as underlined text.

Major policy-level changes marked by yellow indicators in the right margin.

Significant process changes marked by blue indicators in the right margin.

ARTICLE I. - INCORPORATION, FORM OF GOVERNMENT, BOUNDARIES, POWERS

Section 1-06. - Joint service agreements.

The city government is authorized, as provided by state law, to enter into joint service agreements or cooperative endeavor agreements with any natural or juridical person ~~efforts with other governmental agencies and political subdivisions~~

Eliminates an implied restriction that agreements could only be made with other governmental entities. State law allows political subdivisions to enter into agreements with private entities (such as a nonprofit organization).

ARTICLE II. - CITY COUNCIL

Section 2-01. - Composition, qualifications and election.

B. A council member shall at the time of qualification have attained the age of eighteen (18) years, been legally domiciled and shall have actually resided in the city for at least two (2) years prior to qualification, be a qualified elector of the city, and shall not have served as a council member ~~from the same councilmanic district~~ for the ~~two~~ three (3) consecutive councilmanic terms immediately preceding the term for which he or she qualifies. For the purpose of this section, ~~servng less than service of at least~~ two (2) consecutive years of an unexpired councilmanic term shall ~~not be required to~~ be deemed service for that term of office. ~~The provisions of this paragraph shall take effect commencing with the councilmanic term of office which begins July 1, 2000; therefore, the term beginning July 1, 2000, shall be the first term of the two (2) consecutive terms allowed by this charter.~~

Changes council term limits from two to three terms, but eliminates "musical chairs" of moving from district to at large seats or vice-versa to avoid the effect of term limits. Also some technical language changes.

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E. ~~Following~~ Within six (6) months after the official publication of each federal census by the United States Bureau of the Census ~~and at least six (6) months prior to the time established by law for qualifying for office in the next regular election for council members,~~ the planning commission shall alter, change or rearrange council district boundaries so as to provide for population equality among the districts as near as reasonably practical. To the extent possible, council districts shall be compact and composed of contiguous territory. If requested by the planning commission, the executive branch shall provide technical assistance to planning commission to facilitate the preparation of a reapportionment plan. The council may provide budgetary resources to the planning commission to engage outside professional services for the same purposes. The procurement of such services shall be subject to the requirements for discretionary procurement provided in Section 5.08. However, notwithstanding the provisions of that section, and only for such a procurement for reapportionment purposes, the planning commission shall administer the procurement process instead of the executive branch, and the contract approval shall be by the planning commission rather than the council.

Procedural revision and technical clarification for schedule workability. As written, reapportionment would not be possible in 2020.

F. The reapportionment plan prepared by the planning commission shall be submitted to the council for approval by ordinance. The council may adopt, amend or reject the reapportionment plan prepared by the planning commission. Upon rejection of a plan by the council, the planning commission shall submit an alternate plan. No ~~reapportionment~~ ordinance ~~effecting [affecting] reappointment~~ shall be considered for final passage by the council until at least three (3) advertised public hearings have been held on the proposal.

G. An ordinance adopting a reapportionment plan for the council shall not be subject to veto by the mayor.

(Ord. No. 03-02, 1-23-02)

H. If a reapportionment plan is not approved at least two (2) months in advance of the time established by law for qualifying for office in the next regular election for council members (which shall include approval by the council and approval by any other agency whose approval is required by state or federal law), the plan shall not take effect for the next regular election following, but shall be in effect for subsequent regular elections.

C. If the council does not make an appointment as required by this section within ~~thirty (30)~~twenty (20) days, the appointment shall be made by the ~~governor~~mayor. If an election is required and the council fails to issue the proclamation within ~~fifteen (15)~~twenty (20) days after the vacancy occurs, the ~~governor~~mayor shall issue the proclamation.

The timing revisions are technical changes to track state election law.

Changing the backup appointing authority from the governor to the mayor is a substantive change intended to keep local decisions local and to avoid potential political issues from crossing levels of government.

Section 2-04. - Compensation.

B. The council may periodically review the salary paid council members and may change same by ordinance adopted at least ninety (90) days prior to the qualifying deadline for the next term of office. Any , except that a change in salary shall not become effective until commencement of the next term of office.

Schedule limitation to insure that candidates know what the salary will be when they qualify.

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Section 2-05. - Prohibition.

B. Except as specifically provided in this charter, neither the council nor any of its members shall remove, direct or supervise any administrative officers or employees whom the mayor or any of his subordinates are empowered to appoint, nor shall they substantially reduce any such officer or employee's compensation or benefits unless the reduction is part of a budget reduction applicable to the city workforce as a whole.

Change to prohibit indirect removal of executive branch personnel.

Section 2-06. - Council meetings and rules.

B. All meetings of the council, council members elect, and council and its committees shall be open to the public in accordance with the provisions and exceptions of general state law.

Clarifies that the Open Meetings Act applies to new council members between the election and when they take office.

D. At all regular meetings of the council, the council shall operate from an agenda which shall have been posted in a prominent place in city hall, and on the Internet, and made available to the news media at least four days prior to the meeting and published in the official journal prior to the meeting. The published agenda may be amended at the meeting upon the favorable vote of at least a majority of the council membership in accordance with general state law. The agenda for special or emergency meetings shall be made available to the public as soon as practical prior to the meeting. The council may, by resolution, establish procedures by which the agenda is prepared, which may include deadlines for submission of agenda items. Such procedures shall not deny any council member the right to have an item placed on the agenda, provided the agenda item is submitted timely under such procedures.

Elevates some agenda control procedures to the charter level.

E. Organization of the council shall occur at the first meeting of a newly elected council. ~~Changes may be made in the organization during the term for which the council is elected by a vote of two-thirds of the authorized membership of the council. A mayor pro tempore~~ A council president shall be elected by a majority vote of the council from among the at-large council members, and shall serve as the council's presiding officer. The ~~mayor pro tempore~~ council president shall make committee appointments and preside at meetings of the council. In the absence or disqualification of the ~~mayor pro tempore~~ council president, the council shall designate one of its other members as temporary presiding officer. The ~~mayor pro tempore~~ council president and temporary presiding officer shall be voting members of the council, except as otherwise provided in this charter. The organization of the council, the council president, or temporary presiding office may be changed by majority vote of the council.

Terminology changes and technical clarifications.

Allows changes to the organization of the council to be implemented by majority rather than 3/2rds.

G. All votes of the council shall be based on the authorized membership of the council unless otherwise specified in this charter. As used in this charter, "authorized membership" means the number of council members then in office and not disqualified from serving, excluding members mandated by law to abstain from voting on a particular matter, such as by virtue of ethics laws or this charter. The term "membership" used alone without modification shall mean all five council members.

Definitional clarification, but with some impacts. Needs to be considered in conjunction with change in supermajority requirements.

Section 2-08. - Independent audit.

The council shall provide for an annual independent postaudit, and such additional audits as it deems necessary, of the accounts and other evidence of financial transactions of the city, including those of all city departments, offices or agencies. Audits may be by the state or the council may designate a private auditor to make such audits. The provisions of Section 5.08 related to discretionary procurements shall not apply to the council's selection of a private auditor. However, if a private auditor is utilized, the council shall procure such services through an public selection process, to be determined by the council, that allows any auditor authorized by state law to propose to provide audit services, except that the council may decline to accept a proposal from any auditor who provided audit services to the city during the three fiscal years prior to the fiscal year being audited. The private auditor shall be without personal interest in the affairs subject to audit and shall be a certified public accountant or firm of such accountants. The audit shall be submitted to the council at one of its regularly scheduled meetings and shall be a public record, and a summary thereof shall be published at least once in the official journal and on the Internet.

Clarification of power to choose an auditor.

Section 2-10. - Action requiring an ordinance.

An act of the council having the force of law shall be by ordinance. An act requiring an ordinance shall include, but not be limited to those which:

- (12) Acquire or accept ownership of immovable property on behalf of the city government (authority for which may be provided as part of a budget ordinance).

Simplifies authority for minor acquisitions.

Section 2-13. - Emergency ordinances.

A. To meet a public emergency affecting life, health, property or public safety, the council by the favorable vote of at least ~~two-thirds~~ three-fourths of its authorized membership, may adopt an emergency ordinance at the meeting at which it is introduced, provided that no such ordinance may be used to levy taxes or special assessments; grant or extend a franchise; incur debt, except as provided in the section on "Emergency appropriations"; adopt or amend an official map, platting or subdivision controls or zoning regulations; or change rates, fees or charges established by the city government. An emergency ordinance may temporarily suspend or modify any existing ordinance. Each emergency ordinance shall contain a specific statement of the emergency claimed.

Allows suspension of existing ordinances during emergency (as opposed to merely passing new emergency ordinances).

ARTICLE III. - EXECUTIVE BRANCH

Section 3-08. - Mayor's temporary absence.

E. By ordinance, the city may provide for the use of electronic signatures or similar means for the mayor to execute documents or authorize actions provided under this charter.

Updates the charter to the digital age.

ARTICLE IV. – ADMINISTRATION

Section 4-01. - General provisions.

E. By ordinance, the city may establish the position of chief administrative officer, specifying the duties and authorities of the position, provided that a chief administrative officer shall not be delegated any power, action, decision, or function expressly provided for or by the mayor in this charter. Any chief administrative officer shall be nominated by the mayor and confirmed by the council, and shall serve at the pleasure of the mayor.

Allows, but does not require, a CAO position.

Section 4-02. - Legal Department.

A. The head of the legal department shall be the city attorney who shall be appointed by the mayor subject to approval by the council.

B. The city attorney shall be an attorney duly authorized and licensed to practice law in the courts of Louisiana.

C. The city attorney shall serve as chief legal advisor to the mayor, council and all departments, offices and agencies, shall represent the city in all legal proceedings, and shall perform other duties prescribed by this charter or by ordinance.

D. Any assistant city attorneys authorized by the council shall be appointed by the city attorney subject to approval by the council

E. No special legal counsel representing or advising the city shall be employed by the city except by written contract and approval of the council. Unless expressly exempted by the council, the discretionary procurement provisions of Section 5.08 shall apply to the selection of special legal counsel.

Clarifies special counsel provisions.

F. Notwithstanding any other provisions of this Section 4.02 or of Section 5.08, but subject to the availability of a an appropriation for this purpose, the council may, by resolution, engage special legal counsel to advise the council in situations where the council determines that advice independent of the executive branch is required. The resolution authorizing such counsel shall describe with particularly the following:

Substantially new; creates the authority for the council to hire its own attorney for specific issues, and establishes the procedure for doing so.

1. The circumstances requiring independent advise;

2. The substantive scope of the engagement;

3. The duration of the engagement, which shall not exceed six (6) months, which term may be extended by council resolution satisfying the requirements of this section;

4. The compensation of the special legal counsel.

No special legal counsel shall be engaged under this section 4.02(F) unless the resolution authorizing the engagement passes by at least four (4) affirmative votes of the council members.

ARTICLE V. - FINANCIAL PROCEDURES

Section 5-03. - Capital improvement budget.

B. The capital budget shall include:

(5) All unexpended balances from a prior year appropriations and contractual obligations against those balances, itemized for the individual projects authorized.

Improves information on prior budget authorizations.

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C. At a meeting of the council at which the capital improvement budget is submitted, the council shall order a public hearing on such capital improvement budget and shall cause to be published in the official journal, at least ten (10) days prior to the date of such hearing, the time and place of the hearing, a general summary of the proposed capital improvement budget and the times and places where copies of the proposed capital improvement budget are available for public inspection. At the time and place so advertised, the council shall hold a public hearing on the capital improvement budget as submitted. Changes in the proposed capital improvement budget by the council shall be by the favorable vote of at least a majority of the authorized membership of the council. In considering the capital improvement budget, the council may rescind the unexpended balance of any prior year appropriation that is not contractually obligated. The capital improvement budget as finally adopted by ordinance shall be reproduced and sufficient copies shall be made available for use by all offices, departments and agencies of the city government. Copies shall be available for public use in the office of the clerk of the council and additional copies may be purchased at cost.

Clarifies that prior unexpended balances may be rescinded, and should be read in conjunction with the newly proposed provision in 5-03(B)(5) requiring the capital budget to disclose unexpended balances.

Section 5-04. - Administration of operating and capital budgets.

B. Nothing in this charter shall be construed so as to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is authorized by ordinance, ~~except that contracts for services not covered by the public bid law shall be for a period not to exceed three (3) years.~~

The three-year limitation is no longer needed if the discretionary procurement language is adopted.

Section 5-05. - Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. ~~An~~Provided that an unexpended balance is included in the capital budget under Section 5.03(B)(5), an appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; ~~the, or until the appropriation has been rescinded.~~ The purpose of any such appropriation shall be deemed abandoned if one (1) year passes without any disbursement from or encumbrance of the appropriation.

Clarifies the application of budgetary rescissions.

Section 5-08. - Purchasing.

~~B. Contracts for professional services, technical equipment, and purchases in excess of the amount specified by state law to be advertised and bid shall be submitted to the council by the mayor with the mayor's recommendation as to the contract to be awarded. Any purchase of property, supplies, materials, or services (including, but not limited to professional services) for which general state law does not specify a procurement process and award to the lowest responsive bidder shall be advertised, evaluated, and awarded by a competitive selection process, referred to herein as "discretionary procurements." The process shall be conducted by the executive branch, and shall adhere to the following minimum requirements:~~

- ~~1. Public notice of a solicitation in the official journal and on the Internet sufficiently far in advance of the deadline for vendors to respond to give prospective vendors a reasonable opportunity to evaluate the solicitation and formulate a response. In the absence of an emergency, the time period shall be no shorter than one (1) week.~~
- ~~2. A description in the solicitation of the specific property, supplies, materials, or services to be procured.~~
- ~~3. A description in the solicitation of the factors that will be used to evaluate vendor responses, including the basis of ranking, scoring, or assigning weights to evaluation factors. Except where prohibited by general law, cost shall be included as an evaluation factor. Except where prohibited by general law or by conditions or restrictions imposed by the source of funding anticipated for the procurement, the evaluation factors may include a preference for vendors located in the city or in nearby jurisdictions.~~
- ~~4. A description in the solicitation of the composition of the evaluation panel or persons who will evaluate responses to the solicitation. A minimum of three individuals selected by the executive branch shall evaluate responses.~~
- ~~5. Public disclosure of the results of the evaluation of all responses.~~
- ~~6. Award of the procurement to the response that receives the highest evaluation, unless rejected by the council in accordance with this section.~~

~~C. A discretionary procurement exceeding \$50,000 in value shall not be awarded until the proposed contract for such award is submitted to the council for approval. At the first regular or special meeting of the council held after receipt of the mayor's recommendations proposed contract, the council shall, by the favorable vote of at least a majority of the authorized membership, approve or disapprove the mayor's recommendations contract.~~

~~D. Should the council disapprove the mayor's recommendation proposed contract, the executive branch shall either propose a revised contract for the selected vendor, or shall propose a contract for the next-highest evaluated vendor, the mayor shall make another recommendation and the procedure for council approval shall be the same as that required by this section~~

~~E. Notwithstanding the dollar threshold in Section 5.08(C), all discretionary procurements shall be reported to the council, and shall not be enforceable by the prospective vendor as an obligation of the city unless and until reported to the council. For each procurement, the report to the council shall include the name of the prospective vendor, a brief description of the procurement, the amount of the procurement, and the duration of the contract.~~

~~F. Unless expressly approved by the council, the term of a discretionary procurement shall not exceed three (3) years.~~

Substantially new provisions on professional service and other non-low bid procurements.

G. Any discretionary procurement may be terminated by the city if sufficient funds are not appropriated either the operating budget or the capital improvements budget. Such termination shall be without penalty to the city.

H. By ordinance, the city may increase the dollar threshold stated in Section 5.08(C), may establish additional requirements for the discretionary procurement process, including evaluation criteria, standard contractual provisions, or vendor disclosure requirements. Such ordinance provisions may be established either for described classes or for specific procurements, and may be provided for in a separate ordinance or as a part of an ordinance establishing an operating or capital improvements budget.

I. In the event of an emergency, the discretionary procurement requirements of this Section 5.08 may be modified or suspended by emergency ordinance, subject to the provisions of this charter governing emergency ordinances.

J. The discretionary procurement requirements of this Section 5.08 shall not apply to the appointment of department heads, the selection of a city attorney, the selection of city employees, or appointments to boards or commissions.

