



COUNTY ATTORNEY'S OFFICE
JEFFREY J. NEWTON, County Attorney

201 South Rosalind Avenue ■ 3rd Floor
Reply To: Post Office Box 1393
Orlando, FL 32802-1393
407-836-7320 ■ Fax 407-836-5888
http://www.ocfl.net

05-01-15A10:49 RCVD

Handwritten initials

MEMORANDUM

Deputy County Attorney
Joel D. Prinsell

05-01-15A10:55 RCVD

Senior Assistant County Attorneys
Lila McHenry

DATE: May 1, 2015

TO: Katie Smith, Deputy Clerk, Manager
Comptroller Clerk's Office

Assistant County Attorneys

THRU: Cheryl Gillespie, Agenda Development Supervisor
Agenda Development Office, BCC

Andrea Adibe
Robertta Alfonso

FROM: Kate Latorre, Assistant County Attorney

Michael Bray
Edward M. Chew

CONTACT: 407-836-9651 - Katherine.Latorre@ocfl.net

Anthony Cotter
Whitney E. Evers
Wanzo Galloway, Jr.
Georgiana Holmes

RE: Request for Public Hearing – June 2, 2015
Ordinance Amending Sections 2-195, 2-212, 15-30, 30-34, and 30-42 of the
County Code Related to "Resign-to-Run" Requirements

Katherine W. Latorre
Peter A. Lichtman
Scott McHenry
Sawsan Mohiuddin
Scott Shevenell
William Turner

TITLE OF
ORDINANCE:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE
COUNTY, FLORIDA RELATING TO "RESIGN-TO-RUN" REQUIREMENTS;
AMENDING SECTION 2-195, SECTION 2-212, SECTION 15-30, SECTION 30-34,
AND SECTION 30-42, OF THE ORANGE COUNTY CODE OF ORDINANCES TO
REPEAL "RESIGN-TO-RUN" PROVISIONS THAT CONFLICT WITH FLORIDA
LAW; AND PROVIDING AN EFFECTIVE DATE.

Legal Administrative Supervisor

Anna M. Caban

Applicant: Orange County Attorney's Office

Senior Paralegal
Kimberly Cundiff

Location: N/A

Paralegals
Cathy Saravanja, CP
Maria Vargas, ACP

Estimated time required
for public hearing: 2 minutes

Hearing controversial? Unlikely

Advertising requirements: Publish in the legal classified section of a
local newspaper of general circulation.

Advertising time frames: 1 day, 10 days prior to first hearing

Handwritten note: 6-2-15 2pm

Applicant/Abutters to be notified: No

Hearing required by
Fla. Statute # or code: Florida Statutes, Section 125.66

Spanish Contact Person: Para mas informacion con respecto a esta audiencia publica, favor comunicarse con la oficina de abogados del condado orange, 407-836-7320.

The following materials will be submitted as backup for this public hearing request:

1. Ordinance
2. Memo to the Mayor and Board of County Commissioners

INSTRUCTIONS TO CLERK :

Please return one executed copy of the Ordinance to Kate Latorre.

Orlando Sentinel

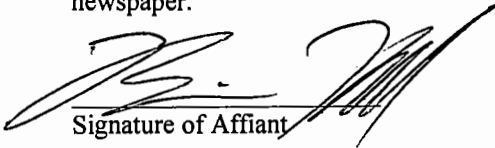
Published Daily
ORANGE County, Florida

STATE OF FLORIDA

ORANGE County


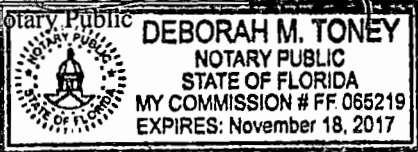
Before the undersigned authority personally appeared **Sheri Schmitz / Adys DelValle / Brian Hall** who on oath says that he/ she is an Advertising Representative of the ORLANDO SENTINEL, a DAILY newspaper published in ORANGE County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter of **Ordinance regarding Resign-to-Run Requirements** in Orange County, Florida, was published in said newspaper in the issues **05/17/15**

Affiant further says that the said ORLANDO SENTINEL is a newspaper published in said ORANGE County, Florida, and that the said newspaper has heretofore been continuously published in said ORANGE County, Florida, each day and has been entered as periodicals matter at the post office in ORANGE County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Signature of Affiant

Sworn to and subscribed before me on this **18** day of **May**, **2015**.


Signature of Notary Public


DEBORAH M. TONEY
NOTARY PUBLIC
STATE OF FLORIDA
MY COMMISSION # FF 065219
EXPIRES: November 18, 2017

Name of Notary, Typed, Printed, or Stamped
Personally Known (X) or Produced Identification ()

3271651

**ORANGE COUNTY
NOTICE OF PUBLIC HEARING**

The Orange County Board of County Commissioners will conduct a public hearing on June 2, 2015, at 2 p.m., or as soon thereafter as possible, in the County Commission Chambers, First Floor, County Administration Center, 201 South Rosalind Avenue, Orlando, Florida. You are invited to attend and be heard regarding the following proposed ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA RELATING TO "RESIGN-TO-RUN" REQUIREMENTS; AMENDING SECTION 2-195, SECTION 2-212, SECTION 15-30, SECTION 30-34, AND SECTION 30-42, OF THE ORANGE COUNTY CODE OF ORDINANCES TO REPEAL "RESIGN-TO-RUN" PROVISIONS THAT CONFLICT WITH FLORIDA LAW; AND PROVIDING AN EFFECTIVE DATE.

You may examine the notice and the proposed ordinance at the office of the Comptroller Clerk of the Board of County Commissioners, 201 South Rosalind Avenue, Fourth Floor; Orlando, Florida; between 8 a.m. and 5 p.m., Monday through Friday.

IF YOU HAVE ANY QUESTIONS REGARDING THIS NOTICE, CONTACT THE ORANGE COUNTY ATTORNEY'S OFFICE, 407-836-7320, Email: Katherine.Latorre@occl.net

PARA MÁS INFORMACION CON RESPECTO A ESTA AUDENCIA PUBLICA, FAVOR COMUNICARSE CON LA OFICINA DE ABOGADOS DEL CONDADO ORANGE, 407-836-7320.

If you wish to appeal any decision made by the Board of County Commissioners at this meeting you will need a record of the proceedings. You should ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

If you require special accommodations under the Americans with Disabilities Act of 1990, please call 407-836-5631 no later than two business days prior to the hearing for assistance. Si usted requiere ayuda especial bajo la ley de Americanos con Incapacidades de 1990, por favor llame al 407-836-5111.

Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners
Orange County, Florida

ORG3271651 5/17/15

ORDINANCE NO. _____

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA RELATING TO "RESIGN-TO-RUN" REQUIREMENTS; AMENDING SECTION 2-195, SECTION 2-212, SECTION 15-30, SECTION 30-34, AND SECTION 30-42, OF THE ORANGE COUNTY CODE OF ORDINANCES TO REPEAL "RESIGN-TO-RUN" PROVISIONS THAT CONFLICT WITH FLORIDA LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 1(g) of the Florida Constitution provides that the County may enact ordinances not inconsistent with general law; and

WHEREAS, section 99.012, Florida Statutes, sets forth restrictions on individuals qualifying for public office and governs when an officer is required to resign from his or her presently held public office before qualifying for another public office; and

WHEREAS, the Orange County Code of Ordinances ("County Code") also includes provisions governing a public officer's duty to resign from their current County office in order to qualify for another public office; and

WHEREAS, currently, the County Code places greater restrictions on certain County officers than section 99.012, Florida Statutes, does by requiring those County officers to resign from public office in order to qualify for another public office when the state law would not require resignation; and

WHEREAS, when the legislature enacts a statute, a local government cannot adopt or enforce an ordinance that conflicts with the statute; *City of Kissimmee v. Fla. Retail Fed'n, Inc.*, 915 So. 2d 205 (Fla. 5th DCA 2005); and

WHEREAS, the "resign to run" provisions contained in the County Code directly conflict with section 99.012, Florida Statutes, by prohibiting conduct which is permitted by state law; and

WHEREAS, a local law placing greater restriction on a public officer's right to run for office is in conflict with the state statute and must give way; *City of Hialeah v. Martinez*, 402 So. 2d 602 (Fla 3d DCA 1981); Fla. Op. Att'y Gen. 82-91 (1982); and

WHEREAS, in order to eliminate the existing conflicts with state law, the Board of County Commissioners desires to amend the County Code related to "resign to run" requirements as set forth herein.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY:

Section 1. Amendment to Section 2-195. Section 2-195, Administrative

46 matters, of the Orange County Code of Ordinances is hereby amended as follows with
additions being shown by underlines and deletions being shown by ~~strike-throughs~~:

48 Sec. 2-195. Administrative matters.

50 ~~(a) — “Resign to run” rule. On or before the date that a~~
52 ~~member of the citizen review board either appoints a~~
~~campaign treasurer or designates a primary campaign~~
54 ~~depository as required by F.S. § 106.21, or any successor~~
~~legislation, regardless of the office for which the member~~
56 ~~intends to r un, such member shall submit his or her~~
~~resignation to the citizen review board chairman, and such~~
58 ~~resignation shall be irrevocable and shall take effect~~
~~immediately.~~

60 (ab) Removal. Any member of the citizen review board
may be removed from office for just cause or for failure to
62 attend seventy-five (75) percent of the meetings of the
citizen review board within any year of their appointment, in
64 either case by a four-sevenths (4/7) vote of the board of
county commissioners; provided, the member shall be
66 entitled, at the member’s option, to a public hearing before
such vote is taken.

68 (be) Vacancy. Any vacancy occurring during the
70 unexpired term of office of any member of the citizen review
board shall be filled pursuant to the procedures set forth in
72 section 2-193 for the remainder of the term within thirty (30)
days after the vacancy occurs.

74 (cd) Citizen review board officers and rules of procedure.
The citizen review board shall elect a chairman and vice-
76 chairman from among the members of the citizen review
board, shall be governed by Roberts Rules of Order,
78 modified by rules adopted from time to time by the citizen
review board to ensure the orderliness of its proceedings. In
80 the absence of the chairman, the vice-chairman shall preside
and have the same powers and duties.
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84 (de) Quorum and official action. A quorum shall consist of
five (5) members and action may be taken by the citizen

86 review board only upon a vote by a majority of the members
87 present.

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(ef) *Meetings.* The citizen review board shall hold regular
90 meetings open to the public at a time to be set by the citizen
91 review board; shall adopt rules for the transaction of its
92 business; and shall keep a record of its resolutions,
93 transactions, findings and recommendations, attendance
94 and voting records of its members, which record shall be a
95 public record.

96

(fg) *Legal counsel.* The citizen review board is authorized
98 to retain legal counsel for assistance in carrying out its duties
99 with funding to be provided by the board of county
100 commissioners.

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Section 2. Repeal of Section 2-212. Section 2-212, "Resign to run"
103 requirements, of the Orange County Code of Ordinances is hereby repealed in its
104 entirety and is set forth below for reference purposes only.

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~~Sec. 2-212. "Resign to run" requirements.~~

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Section 3. Section 15-30, Same – Organization, of the Orange County Code

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of Ordinances is amended as follows with additions being shown by underlines and
121 deletions being shown by ~~strike-throughs~~:

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(a) The Orange County Environmental Protection
Commission established pursuant to this act [article] shall
consist of seven (7) members appointed by the board of

126 county commissioners and shall comply with chapter 2,
127 article VI, creation, operation, review of advisory boards, of
128 this Code.

129 ~~(b) Members of the commission, while serving, shall not~~
130 ~~become candidates for election to any public office and the~~
131 ~~"resign to run" requirements set forth in section 2-212 of this~~
132 ~~Code shall be applicable to commission members as if the~~
133 ~~commission were specifically listed in that section.~~

134 (be) Appointments shall be made by the board of county
135 commissioners.

136 (ce) The composition and representative membership of
137 the commission shall be as follows:

138 (1) A representative who is a professional
139 engineer registered in the state with experience in the
140 field of civil engineering or environment engineering;

141 (2) A representative of agricultural interests
142 actively engaged in agricultural operations;

143 (3) A representative of recognized environmental
144 conservation organizations;

145 (4) Two (2) representatives of private businesses
146 or municipalities directly regulated, affected and
147 subject to the provisions of this act [article];

148 (5) A representative who is an environmental
149 specialist with a degree in a scientific field and
150 specific knowledge of aquatic biology, zoology,
151 botany or other related field;

152 (6) A citizen representative of the interests and
153 point of view of the general public and not directly
154 regulated or affected by the provisions of this act
155 [article].

156 (de) In order that the terms of all members of the
157 commission shall not expire at the same time, three (3)
158 members shall be appointed for the terms ending in even
159 years, and four (4) members shall be appointed for the terms
160 ending in odd years. After the initial appointments, all

170 appointments shall be made for the term of two (2) years
172 and shall expire at midnight on December 31 of the
appropriate year. Appointments to fill any vacancy on the
174 commission shall be for the remainder of the unexpired term.

Section 4. Amendment to Section 30-34. Subsection (c) of Section 30-34,
176 Planning and zoning commission – Establishment, composition, etc.,” is hereby
amended as follows with additions being shown by underlines and deletions being
178 shown by strike-throughs:

180 (c) ~~“Resign to run” rule;~~ rRemoval from office.

182 ~~(1) On or before the date that a member of the~~
184 ~~planning and zoning commission either appoints a~~
186 ~~campaign treasurer or designates a primary campaign~~
188 ~~depository as required by F.S. § 106.021 or any~~
190 ~~successor legislation, regardless of the office for~~
192 ~~which the member intends to run, such member shall~~
~~submit his or her written resignation to the county~~
~~chairman, and such resignation shall be irrevocable~~
~~and shall take effect upon appointment of a successor~~
~~or sixty (60) days after submission of the resignation~~
~~to the county chairman, whichever occurs sooner.~~

194 (2) Any member of the planning and zoning
196 commission may be removed from office for failure to
regularly attend the meetings of the commission
198 without just cause, or for any other just cause, by a
four-sevenths vote of the board of county
200 commissioners; provided the member shall be entitled
to a public hearing before such vote is taken.

Section 5. Amendment to Section 30-42. Subsection (c) of Section 30-42,
202 Board of zoning adjustment – Establishment, composition, etc.,” is hereby amended as
follows with additions being shown by underlines and deletions being shown by strike-
204 throughs:

206 (c) ~~“Resign to run” rule;~~ rRemoval from office.

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~~(1) On or before the date that a member of the board of zoning adjustment either appoints a campaign treasurer or designates a primary campaign depository as required by F.S. § 106.021 or any successor legislation, regardless of the office for which the member intends to run, such member shall submit his or her written resignation to the county chairman, and such resignation shall be irrevocable and shall take effect upon appointment of a successor or sixty (60) days after submission of the resignation to the county chairman, whichever occurs sooner.~~

(2) Any member of the zoning board of adjustment may be removed from office for failure to regularly attend the meeting of the board of zoning adjustment without just cause, or for any other just cause, by a four-sevenths vote of the board of county commissioners; provided the member shall be entitled to a public hearing before such vote is taken.

Section 6. Effective Date. This ordinance shall take effect pursuant to general law.

ADOPTED THIS ____ DAY OF _____, 2015.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: _____
Teresa Jacobs
Orange County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: _____
Deputy Clerk