

## Rachel Castillo

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**From:** Thomas A. Cloud, Esquire <Thomas.Cloud@gray-robinson.com>  
**Sent:** Friday, January 31, 2025 3:27 PM  
**To:** Rachel Castillo  
**Cc:** Kelly Callihan  
**Subject:** RE: Question

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Rachel,

As we discussed, the term limit applies to “persons elected or appointed” and not to “candidates.” First, the requirement is not contained in the subsection that deals specifically with candidate qualifications, but rather is specifically applicable to persons. For 70 years, Florida courts have consistently ruled that candidacy qualifications must be liberally construed in favor of qualification:

“The law requires that we resolve doubts about qualification of a political candidate in favor of the candidate....The right to be a candidate for public office is a valuable one and no one should be denied the right unless the Constitution or an applicable valid law expressly declares him to be ineligible.” *Wright v. City of Miami Gardens*, 290 So.3d 765 (Fla. 2010), as cited in *Martinez v. Hernandez*, 227 So.3d 1257 (Fla. 3<sup>rd</sup> DCA 2017).

Thus, the term limit cannot be applied to a candidate but only to one who is “elected or appointed.” It’s at that point that the Charter would apply the one year prohibition against actually holding the office. Call me if you have further questions.

**Tom Cloud**

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**From:** Rachel Castillo <rcastillo@mydavenport.org>  
**Sent:** Thursday, January 30, 2025 3:28 PM  
**To:** Thomas A. Cloud, Esquire <Thomas.Cloud@gray-robinson.com>  
**Subject:** Question

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Good Afternoon and Happy New Year!

I have a question and need an opinion. Tom Fellows is planning on running this year. Mr. Fellows termed out last year and couldn't run in April.

Below are excerpts from the Charter of Section 2.01.

## **SECTION 2.01**

### *(c) Election, terms, and term limits.*

1. All persons currently holding elective office as a Commission Member shall continue to hold such office until their term expires. Thereafter, on the expiration of the said respective term, each elected Commission Member shall be elected for terms of three (3) years, except as otherwise stated in Section 10.01(b), *Schedule of Initial and Subsequent Elections*.
2. A person may not be elected to more than two (2) consecutive three (3) year terms. At the expiration of the second term, that person shall not be eligible to serve as a Commission Member, either by appointment or by election for a period of one (1) year. The commencement and implementation of term limits shall be as specified in Section 10.01 (b), *Schedule of Initial and Subsequent Elections*.
3. The regular election of the Commission shall be held on the first (1<sup>st</sup>) Tuesday in April. Any change to the date and/or time of municipal elections or changes regarding election procedures shall only be effective if fully designated in an Ordinance duly adopted by the Commission.
4. If no person receives a majority of the votes cast in the regular election, a runoff election shall be held on the first (1<sup>st</sup>) Tuesday in May for the two (2) persons receiving the highest number of votes in the regular election.
5. Following certification of the election, the elected terms of office shall expire at the next regular meeting and the newly elected Commission Members shall take office during said meeting.

Based on the above, can he run again in the April election?

Thank you.

Rachel Castillo Young  
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