

Within seven (7) days of the date of the preliminary resolution, the manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. If a public hearing is requested as provided herein, the removal shall not be effective until after such hearing is conducted. After such public hearing, if one be requested, and after full consideration, the city commission by an affirmative vote of at least three (3) of its members may adopt a final resolution of removal.

By the preliminary resolution the city commission may suspend the city manager from duty, but shall in any case continue to pay full salary to the city manager until the effective date of a final resolution of removal. Upon the expiration of the city manager's contract, the above process is not applicable and the city commission may remove the city manager by an affirmative vote of at least three (3) commissioners.
(Ord. No. 19-56, § 2(Amd. 2), 11-14-19, elec. of 3-17-20)

Sec. 28. Qualifications.

The city manager shall be chosen by the city commission solely on the basis of executive and administrative qualifications, with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of the office as hereinafter set forth. At the time of the city manager's appointment, and for a period of ninety (90) days thereafter, the city manager need not be a resident of the city, but during the city manager's tenure of office the city manager shall reside within the city. The city commission may extend the residency requirement for good cause shown.

Sec. 29. Absence, disability or suspension.

To perform the city manager's duties during the temporary absence or disability of the city manager, not to exceed thirty (30) days, the city manager shall designate, by letter filed with the city clerk, a qualified administrative officer of the city. In the event of the failure of the city manager to make such designation, the city

commission may by resolution appoint an officer of the city to perform the duties of the city manager until the city manager returns, or the city manager's disability ceases.

Sec. 30. Powers and duties.

The city manager shall be the chief executive officer of the city and responsible to the city commission for the management of all city affairs placed in the city manager's charge by or under this charter. Subject to Florida Statutes as from time to time amended, the city manager shall:

- (1) Appoint, suspend and remove all city employees and appointive administrative officers, except as otherwise provided by law, this charter, or city ordinances. The city manager may authorize any administrative officer to exercise these powers with respect to city employees and officers that are within, or subordinates of that administrative officer's department, office, or agency, subject to the city manager's direction and supervision;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or law;
- (3) The city manager shall have the right to take part in discussion at City Commission meetings but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city commission, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed.
- (5) Prepare and submit the annual budget and capital program to the city commission, and implement the final budget as approved by the city commission to achieve the goals of the city;
- (6) Submit to the city commission and make available to the public, as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year;

- (7) Make such other reports as the city commission may require concerning operations;
- (8) Keep the city commission fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city commission, concerning the affairs of the city and facilitate the work of the city commission in developing policy;
- (10) Provide staff support services for the mayor-commissioner and commission members;
- (11) Assist the city commission to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among commission, staff, and citizens in developing public policy and building a sense of community;
- (14) Have the authority to execute contracts and other documents on behalf of the city to carry out the city's business and to effectuate the directives of the city commission; and
- (15) Perform such other duties as are specified in this charter or may be required by the city commission not inconsistent therewith.

Sec. 31. Reserved.

ARTICLE IV. CITY DEPARTMENTS AND OFFICERS

Sec. 32. Departmental organization.

- (1) All department heads shall be appointed and may be removed by the city manager, unless otherwise provided herein.
- (2) Each department as herein established, except the city auditor and the city attorney, shall be administered by an officer designated

by, and subject under this Charter to the direction and supervision of the city manager. With the consent of the commission, the city manager may serve as the head of one (1) or more departments; provided, however, the city manager shall not serve as the head of any department set out in Article IV of this charter.

(3) The work of each department shall be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the city manager. Pending the passage of an ordinance or ordinances distributing the work of the departments under the supervision and control of the city manager among specific divisions thereof, the city manager shall establish temporary divisions.

(4) Employees of the city may hold more than one (1) position in the City of Winter Garden.

Sec. 33. City clerk.

The city commission shall by an affirmative vote of at least three (3) commissioners, appoint and have the power to remove a city clerk who shall:

- (1) Give notice of city commission meetings to its members and the public.
- (2) Keep the minutes of city commission proceedings and its committees.
- (3) Be the custodian of the city seal, all ordinances and resolutions and all records and papers of a general or permanent character pertaining to the affairs of the city.
- (4) Have the power to administer oaths.
- (5) Serve as the supervisor of municipal elections and be responsible for the conduct of such elections in the manner prescribed by state law, this charter, and city ordinances; provided, however, the city commission may delegate any or all such municipal election duties and/or authority to the County Supervisor of Elections as deemed necessary by the city commission.
- (6) Perform such other duties as are assigned by this charter, the city commission, the

city manager and state law. In the event of a conflict among duties assigned to the city clerk, the duties assigned by state law, this charter, the city commission and the city manager, shall control in that order. The city manager shall not interfere with the city clerk's performance of duties set forth in subsections (1)—(5), unless otherwise approved by the city commission.

Sec. 34. City attorney.

The city commission shall by an affirmative vote of at least three (3) commissioners, appoint and have the power to remove and establish the compensation for a city attorney who shall be the chief legal advisor of all offices, departments and agencies and of all officers and employees in matters relating to their official duties. It shall be the duty of the city attorney to perform all services incident to the position as may be required by statute, by this charter or by ordinance.

Sec. 35. Police department; chief of police.

(1) There is hereby created in the city a police department for the preservation and enforcement of law and order within the city. Such police department shall be composed of a chief of police and as many subordinate officers and employees as the city manager may direct.

(2) The chief of police will be hired and removed by the city manager with confirmation by a majority vote of the total city commission. The chief of police shall have exclusive control of the stationing and transfer of all officers and employees constituting the police force, subject to the approval of the city manager, or under such rules and regulations as may be prescribed by the ordinances of the city.

(3) The chief of police shall perform such other duties appropriate to the office as may be imposed upon the chief by law, the ordinances of the city, and by direction of the city manager, consistent with this charter.

Secs. 36, 37. Reserved.

ARTICLE V. ELECTIONS

Sec. 38. Referendum.

Whenever a referendum vote is required by general laws of the state, by this charter or by resolution of the city commission it shall be held in accordance with the provisions as set forth herein.

Sec. 39. Conduct generally.

Except as specifically provided herein or by ordinance, all elections in the city, the qualification of electors and the registration of voters shall be conducted in accordance with general law.

Sec. 40. Party insignia on ballots; form to be as in state, county elections.

All ballots used in any special or regular election held under authority of this charter, shall be without party mark or designation and without any insignia or mark of any association or organization thereon, and shall be substantially in the form as the elections ballots used in state and county elections.

Sec. 41. Qualification of candidates in districts; time; procedure; runoff election.

(a) The city clerk, as the registration officer, shall designate the city commission by individual districts, with commissioners designated districts 1 through 4 and the mayor-commissioner designated district 5 elected at-large.

(b) All candidates for office of the mayor-commissioner or commissioners shall register their names, together with the name of the district to which they aspire, with the city clerk. The period within which this registration must occur shall be determined by ordinance.

(c) The winner of a district election shall be the candidate receiving a majority of the votes cast within the district general election, which majority of the votes shall mean greater than

fifty (50) percent of the votes cast. If no candidate receives a majority of votes cast within a district general election, a runoff election shall be held on the date specified by ordinance and the two (2) candidates receiving the greatest votes within a district shall be the only candidates on the ballot for such runoff election. In the event of a tie during the runoff election, the winner of the runoff election shall be selected by a flip of a coin.

(d) In the event there is only one (1) qualified candidate running for office of mayor-commissioner or commissioner, such qualified candidate shall be deemed the winner of the election without the need to hold the district general election for such district.

Sec. 42. Fee; withdrawal.

The city commission shall by ordinance or resolution determine the amount of a registration fee appropriate to the cost involved, if any, to be paid to the city clerk upon registration. Any candidate may withdraw at any time before the form for the election ballots are delivered to the printer for printing, but in no event shall the registration fee be returned or refunded.

Sec. 43. General elections.

A general election of candidates to the office of mayor-commissioner or city commissioner shall be held each year in which the term of office for mayor-commissioner or a city commissioner expires on the date specified by ordinance duly adopted by the city commission of the City of Winter Garden.

Sec. 44. Special elections.

Special elections for any purpose other than a runoff election as hereinbefore provided shall be held in the same manner as a regular election except the city commission, by resolution, shall fix the time of holding such special election and the question to be balloted.

Sec. 45. Write-in candidates.

The provisions of the general laws of the State of Florida governing write-in candidates shall be applicable to general and special elections held within the city.

Sec. 46. Absentee voting.

The provisions of the general laws of the State of Florida governing absentee voters and vote-by-mail ballots shall be applicable to general, recall and special elections held within the city. (Ord. No. 19-56, § 2(Amd. 4), 11-14-19, elec. of 3-17-20)

Sec. 47. Polling places.

The city commission shall adopt the polling places as designated by the Orange County supervisor of elections.

Sec. 48. Canvassing board.

(1) A city canvassing board shall be established for the purposes of canvassing ballots and election results. The canvassing board shall be composed of the city clerk and two (2) citizens who shall be selected by majority vote of the city commission. A third and fourth citizen shall also be selected by majority vote of the city commission to serve as a first and second alternate canvassing board member. The canvassing board members shall be appointed by July 1st of each year and shall serve a one-year term commencing on July 1st and ending June 30th the following year, or until their successors are appointed.

(2) The canvassing board shall meet on the night of the election at the close of the polls or as soon thereafter as practicable to publicly canvass the vote as shown by the returns then on file in the office of the city clerk, adjourn as needed, and meet again in the subsequent days as provided by ordinance to count absentee ballots and provisional ballots.

(3) Election returns shall be canvassed in the manner as provided by general law, ordinance and this charter. The city clerk shall, after the canvass of said election, furnish a certificate of election to be recorded in the minutes of the first city commission meeting thereafter.

(4) If required by statute, or authorized by a majority vote of the City Commission, the duties of the canvassing board with regard to a particular election may be delegated to the County Canvassing Board or such other governmental canvassing entity as established pursuant to interlocal

agreement. If the duties of the canvassing board are delegated in accordance with this section, the entity to which such duties are delegated shall not be bound to those canvassing procedures provided by city ordinance and charter and shall otherwise canvass the election subject to those laws, rules, procedures, and guidelines to which such entity is ordinarily bound. The city clerk shall obtain a certification of the results of the election from the canvassing entity to which canvassing duties have been delegated and shall submit such certification to the City Commission to be recorded in the minutes of the next City Commission meeting.

(Ord. No. 19-56, § 2(Amd. 8), 11-14-19, elec. of 3-17-20)

Secs. 49—54. Reserved.

ARTICLE VI. INITIATIVE AND CITIZEN REFERENDUM

Sec. 55. Initiative and referendum.

(1) *Initiative.* The registered voters of the city shall have power to propose ordinances to the city commission and, if the city commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, comprehensive planning, zoning, or salaries of city officers or employees.

(2) *Citizen Referendum.* The registered voters of the city shall have the power to require reconsideration by the city commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, comprehensive planning, zoning, or salaries of city officers or employees.

Sec. 56. Commencement of proceedings.

Any five (5) registered voters of the city may commence initiative or citizen referendum proceedings by filing with the city clerk an

affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk or other official designated by the commission may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

Sec. 57. Petitions.

(1) *Number of signatures.* Initiative and citizen referendum petitions must be signed by registered voters of the city equal in number to at least ten (10) percent of the total number of voters registered to vote in the city in the calendar month prior to the month in which the petition is filed.

(2) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(3) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(4) *Time for filing citizen referendum petitions.* Citizen referendum petitions must be filed within forty-five (45) days after adoption by the commission of the ordinance sought to be reconsidered.

(Ord. No. 19-56, § 2(Amd. 8), 11-14-19, elec. of 3-17-20)

Sec. 58. Procedure for filing.

(1) *Certificate of clerk; amendment.* Within twenty (20) days after the petition is filed, the city clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in Section 57. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk or other official designated by the city commission within two (2) business days after receiving the copy of the certificate and files a supplementary petition with additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs 1 and 2 of Section 57 and within five (5) business days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient, and the petitioner's committee does not elect to amend or request commission review under paragraph (2) of this section within the time required, the clerk shall promptly present his or her certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition.

(2) *Commission review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) business days after receiving the copy of such

certificate, file a request that it be reviewed by the city commission. The city commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the commission's determination shall then be a final determination as to the sufficiency of the petition.

(3) *Court review; New petition.* A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(Ord. No. 19-56, § 2(Amd. 8), 11-14-19, elec. of 3-17-20)

Sec. 59. Action on petitions.

(1) *Action by commission.* When an initiative or citizen referendum petition has been finally determined sufficient, the city commission shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

(2) *Submission to voters.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final city commission vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the commission shall provide for a special election otherwise the vote shall be held at the same time as such regular election, except that the commission may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) *Withdrawal of petitions.* An initiative or citizen referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the city

by filing with the city clerk a request for withdrawal signed by at least two-thirds ($\frac{2}{3}$) of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 60. Results of election.

(1) *Initiative*. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the city commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) *Citizen Referendum*. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VII. CHARTER REVIEW AND AMENDMENT

Sec. 61. Charter review; amendment.

(1) *Charter Review*. The city commission shall appoint a citizens' charter review committee to review this charter a minimum of once every eight (8) years and to report its proposed changes, if any, to the city commission.

(2) *Charter Amendment*. This charter may be amended in accordance with general law.

ARTICLE VIII. FISCAL MANAGEMENT

Sec. 62. Fiscal year.

The fiscal year of the city shall begin on the first day of October and end on the thirtieth day of September of each year.

Sec. 63. Submission of budget; budget message.

Each year, the city manager shall submit to the city commission a budget in accordance with state law and an accompanying message.

Sec. 64. Budget.

The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the city manager deems desirable or the city commission may require for effective management and understanding of the relationship between the budget and the city's strategic goals.

Sec. 65. Amendments after adoption.

(1) *Supplemental appropriations*. If during the fiscal year the city manager certifies that there are available revenues for appropriation in excess of those estimated in the budget, the city commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(2) *Emergency appropriations*. To address a public emergency affecting life, health, property or the public peace, appropriations may be made by an emergency ordinance. To the extent that there are no available unappropriated revenues or fund balances to meet such appropriations, the city commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time; but the emergency notes and renewals of any fiscal year shall be paid no later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(3) *Reduction of appropriations*. If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the city manager shall report to the city commission, without delay, the estimated amount of the deficit, any remedial action taken by the city manager and the city manager's recommendations as to any other steps to be

taken. The city commission shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.

(4) *Transfer of appropriations.* At any time during the fiscal year, the city commission may by resolution transfer part or all of any unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational unit or a new appropriation. The city manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report transfers to the city commission in writing within thirty (30) days.

(5) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(Ord. No. 19-56, § 2(Amd. 9), 11-14-19, elec. of 3-17-20)

Sec. 66. Capital program.

The city commission shall follow state law in the submission and adoption of a capital program.

Sec. 67. Issuance of bonds.

The city may issue general obligation bonds, revenue bonds, excise tax bonds, sales tax bonds, other bonds, certificates of indebtedness and other forms of indebtedness in accordance with state law.

Sec. 68. Independent audit.

The city commission shall provide for an independent annual audit of all city accounts in accordance with state law.

Sec. 69. Reserved.

ARTICLE IX. MISCELLANEOUS PROVISIONS

Sec. 70. Severability clause.

If any section or part of a section of this charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of section of this charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of section held to be constitutional or invalid.