

DIVISION 3. DIRECTOR OF FINANCE*

Sec. 2-161. Office created.

There is created the office of director of finance who shall perform all the duties in the line of his profession as may be required by the city manager, by this Code or by other city ordinances. (Code 1988, § 2-161)

Sec. 2-162. Appointment and discharge.

The director of finance shall be appointed by the city manager, with the approval of the city commission, and may be discharged as provided under the Charter.

(Code 1988, § 2-162)

Charter reference—Similar provisions, § 32.

Sec. 2-163. Bond.

The director of finance shall furnish a bond before beginning duties in the sum determined by the city manager and city insurance provider for the faithful performance of his duties. The premium of this bond shall be paid by the city.

(Code 1988, § 2-163)

Sec. 2-164. Duties generally.

The director of finance shall perform the following duties:

- (1) Compile the current expense estimates for the budget for the city manager.
- (2) Compile the capital estimates for the budget for the city manager.
- (3) Supervise and be responsible for the disbursement of all monies.
- (4) Maintain a general accounting system for the city government and each of its offices, departments and agencies; be in charge of all books for each office, department and agency; keep separate accounts for the items of appropriation contained in the city budget, each of which accounts shall show the amount of the appropriation,

the amount paid therefrom, the unpaid obligations against it and the unencumbered balance.

- (5) Submit to the city commission through the city manager a monthly statement of all receipts and disbursements in sufficient detail showing the exact financial conditions of the city.
- (6) Prepare for the city manager, as of the end of each fiscal year, a complete financial statement and report.
- (7) Other than monies collected by the tax collector, collect all other revenues of the city or for whose collection the city is responsible, and receive all monies receivable by the city from the state or federal government or from any court or from any office, department or agency of the city.
- (8) Have custody of all public funds belonging to or under the control of the city or any office, department or agency of the city government, and deposit all funds coming into his hands in such depositories as shall be designated by resolution of the city commission, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the city and shall be accounted for and credited to the proper account.
- (9) Have custody of all investments and invested funds of the city government or in possession of the city government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the city and the receipt and delivery of city bonds and revenue certificates for transfer, registration or exchange.
- (10) Examine and approve all contracts, orders and other documents by which the city government incurs financial obligations, having previously ascertained that monies have been appropriated and allotted and will be available when the obligations shall become due and payable.
- (11) Approve as within the budget all proposed expenditures. Unless he shall certify that

***Charter reference**—Director of finance, § 32.

Cross reference—Finance, ch. 42.

there is an unencumbered balance of appropriation and available funds, no appropriation shall be encumbered and no expenditure shall be made.

- (12) Examine all invoices, payrolls and other evidences of obligations due by the city before their payment.
- (13) Require reports of receipts and disbursements from each receiving and spending agency of the city government to be made at such intervals as he may deem expedient.
- (14) Prescribe the forms of receipts, vouchers, bills or claims to be used by all the offices, departments and agencies of the city government.

(Code 1988, § 2-165)

Sec. 2-165. Holding office of deputy city clerk.

The director of finance may also hold the office of deputy city clerk in the absence of the city clerk.

(Code 1988, § 2-166)

DIVISION 4. DIRECTOR OF INFORMATION TECHNOLOGY

Sec. 2-166. Office created.

There is created the office of director of information technology. The director of information technology shall perform all the duties in the line of his profession as may be required of him by the city manager, by this Code or by other city ordinances.

(Ord. No. 04-47, § 1, 8-12-04)

Sec. 2-167. Appointment and discharge.

The director of information technology shall be appointed and removed from office by the city manager as provided in the Charter.

(Ord. No. 04-47, § 1, 8-12-04)

Sec. 2-168. Compensation.

The compensation of the director of information technology shall be fixed by the city manager in the manner of other existing department heads as provided by the City Code of Ordinances.

(Ord. No. 04-47, § 1, 8-12-04)

Sec. 2-169. Duties generally.

(a) Direct and manage city-wide information technology systems and telecommunication systems and activities.

(b) Provide guidance to city commission, city manager, and directors on alignment of technology with city initiatives, policy, and strategic objectives.

(c) Direct interdepartmental technology governance, planning, and coordinate activities to accomplish specific city-wide objectives.

(d) Negotiate and review complex proposals and contracts for purchase of information technology products and services.

(e) Supervise, train and evaluate performance of subordinates.

(f) Plan and develop a budget for departmental operations.

(g) Other relevant duties as might be assigned by the city manager.

(Ord. No. 04-47, § 1, 8-12-04)

Secs. 2-170—2-205. Reserved.

ARTICLE IV. PERSONNEL POLICY*

Sec. 2-206. Authority.

The city manager shall adopt personnel policies and procedures for the city which shall be subject to the concurrence of the city commission.

***Cross references**—Any ordinance or resolution or policy establishing or amending personnel rules or regulations or establishing benefits including old-age and survivor benefits saved from repeal, § 1-7(a)(11); any ordinance prescribing the number, classification, benefits or compensation of any city officers or employees, not inconsistent herewith, saved from repeal, § 1-7(a)(17); officers and employees, § 2-101 et seq.

Secs. 2-207—2-250. Reserved.

ARTICLE V. ELECTIONS*

DIVISION 1. GENERALLY

Sec. 2-251. General and runoff elections; taking office.

(a) *Election dates and terms of office.* Beginning in March 1998, regular municipal elections shall be held on the second Tuesday in March of each year in which the term of office for mayor-commissioner or a city commissioner expires, unless the date and time of such election is otherwise changed by the city commission to coincide with a presidential preference primary in accordance with general law. The terms of office of the mayor and the city commissioners shall be as follows:

- (1) The current terms for the office of mayor-commissioner and all seats on the city commission shall be extended and continue until such time as his respective successor is sworn in.
- (2) Commencing upon his/her election in 2023 at a regular municipal election and in each subsequent election, the mayor-commissioner shall be elected to a four-year term.
- (3) Commencing upon his/her election in 2023 and in each subsequent election, the District No. 1 Commissioner shall be elected for a four-year term.

***Editor's note**—Ord. No. 08-40, §§ 2, 3, adopted August 14, 2008, amended article V in its entirety to read as herein set out. Former article V, §§ 2-251—2-254, 2-276—2-278, pertained to similar subject matter, and derived from Code 1988, §§ 2-315—2-317; Ord. No. 96-23, §§ 1, 2, 12-12-96; Ord. No. 97-66, §§ 2, 4, 10-23-97; Ord. No. 01-84, § 2, 1-10-02; Ord. No. 04-54, § 1, 9-8-04; Ord. No. 08-12, § 2, 2-14-08.

Charter reference—General provisions relative to elections, § 38 et seq.

Cross reference—Any ordinance calling municipal elections or prescribing the manner of conducting the election in accordance with state law saved from repeal, § 1-7(a)(15).

State law reference—Elections and electors, F.S. chs. 97—107.

- (4) The District No. 2, District No. 3, and District No. 4 city commissioners shall continue to serve the three-year term for which they were elected in 2021; however, commencing upon their election in 2024 and in each subsequent election, such city commissioners shall each be elected to four-year terms.

Notwithstanding the provisions of subsections (a)(1) through (4) of this section, the term of office of any person elected to the office of mayor-commissioner or the office of city commissioner shall commence upon being sworn into office and continue until such time as the respective successor of such officeholder is sworn into office.

(b) *Runoff election date.* If no single candidate receives greater than 50 percent of the votes cast within a district general election, a runoff election shall be held on the second Tuesday of the month following the month of the district general election producing the need for a runoff. If necessary, the city commission may change the date of the runoff election by resolution to coordinate the runoff election with other municipalities' elections or to comply with requirements of the county supervisor of elections, provided that such runoff election is held no later than seven weeks after the general election warranting the runoff. The two candidates receiving the greatest votes within a district shall be the only candidates on the ballot for such runoff election. In the event there is a tie between the second and third placing candidates within a district, such candidates will draw lots with the city clerk to determine who will be placed on the runoff ballot as soon as possible after the election results have been certified by the canvassing board. 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 administered by the city clerk.

(c) *Taking office.* Any person elected to the office of mayor-commissioner or the office of city commissioner shall be sworn into office at the next regularly scheduled city commission meeting held after the results of the election for that office are declared by the canvassing board. The

swearing in of commission members shall occur at such city commission meeting after approval of the minutes from the previous meeting(s) and prior to conducting new and old business. The incumbent mayor-commissioner and city commissioners shall continue to hold their respective offices until their respective successors are sworn into office.

(d) *Lack of qualified candidate.* If no candidate qualifies for the office of mayor-commissioner or a specific seat on the city commission when such office or seat is up for election, then such office or seat shall be declared vacant by the canvassing board at its meeting following the regular municipal election. Thereafter, the city commission shall take steps to fill such vacancy in accordance with Section 17 of the Charter. (Ord. No. 08-40, § 2, 8-14-08; Ord. No. 12-03, § 2, 1-26-12; Ord. No. 23-15, § 2, 6-22-23)

Sec. 2-252. Special elections.

Special elections 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 and notice shall be provided in the manner required by Florida Statutes governing special elections. (Ord. No. 08-40, § 2, 8-14-08)

Sec. 2-253. Vote-by-mail ballots and voting.

(a) *Generally.* In addition to the provisions set forth in this article, voting by mail in municipal elections shall be permitted and governed by the provisions of the Florida Statutes governing vote-by-mail ballots and such provisions are hereby adopted as a means of providing for voting by mail in any authorized municipal election; provided, that all forms required to be prepared by the city clerk and executed in her/his presence shall be prepared by the city clerk, but may be deposited by her/him with the Supervisor of Elections of Orange County and all functions of the city clerk in connection with the handling of such vote-by-mail ballots, including but not limited to the verification of signatures, the handling of applications thereof, the issu-

ance of the ballot and receipt and disposition of ballots, may be handled by the Supervisor of Elections of Orange County; except, that all vote-by-mail ballots for voting in municipal elections received by the supervisor of elections shall be turned over and delivered to the city canvassing board and such ballots shall be canvassed by the city canvassing board in the manner prescribed by Florida Statute.

(b) Receipt and return of vote-by-mail ballots.

- (1) Any elector may request a vote-by-mail ballot in the manner prescribed by F.S. § 101.62.
- (2) Any elector may designate, by written authorization in the manner prescribed in F.S. § 101.62, a person to pick up and/or return the ballot for the elector; however, the person designated may not pick up and/or return more than two vote-by-mail ballots per election other than the designee's own ballot, except that additional ballots may be picked up and/or returned for members of the designee's immediate family. For purposes of this section, "immediate family" means the designee's spouse or the parent, child, grandparent or sibling of the designee or of the designee's spouse. The designee and elector must comply with the provisions of F.S. § 101.62. A vote-by-mail ballot not cast in person: 1) must be mailed to the supervisor of elections or 2) delivered directly to the supervisor of elections by the elector or 3) delivered directly to the supervisor of elections by the elector's designee on election day but in no instance earlier than five days prior to election day. A vote-by-mail ballot cast in person must be cast as provided for in the Florida Statutes.
- (3) Nothing in this section shall be construed to prevent the supervisor of elections from providing supervised voting for absent electors residing in adult congregate living facilities or nursing home facilities as those terms are defined

in F.S. ch. 400, provided said supervised voting complies with the provisions of F.S. § 101.655.

- (4) The provisions of this article shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of a city election notwithstanding that the elector has requested a vote-by-mail ballot for that election provided that the provisions of F.S. § 101.69, are followed.

(Ord. No. 08-40, § 2, 8-14-08; Ord. No. 18-05, § 2, 6-25-18)

Editor's note—Ord. No. 18-05, § 2, adopted June 25, 2018, changed the title of § 2-253 from "Absentee voting and ballots" to read as herein set out.

Sec. 2-254. Election board training.

The city clerk shall be responsible for determining the necessary election board requirements for inspectors and clerks and for training said inspectors and clerks for all city municipal elections. Said requirements and training procedures shall be consistent with the Florida Statutes.

(Ord. No. 08-40, § 2, 8-14-08)

Sec. 2-255. Early voting opt out.

The City of Winter Garden hereby exercises its right to exempt itself from the provisions of F.S. § 101.657, and shall contract with the Orange County Supervisor of Elections to conduct early voting for the City of Winter Garden at the Orange County Supervisor of Elections Office.

(Ord. No. 08-40, § 2, 8-14-08)

Charter reference—Elections, Art. V.

Sec. 2-256. Registration of candidates.

(a) *Registration period.* The period within which registration of all candidates for the offices of mayor-commissioner and commissioner for the districts for which the general election is to be held shall commence on noon of the first Tuesday in January of the year of election. The registration of candidates shall terminate at noon on the seventh day after the date of commencement of registration. If any city recognized holiday falls within the seven-day registration period, the registration period shall be extended by the same number of holiday(s).

(b) *Registration fee.* All candidates for mayor-commissioner and commissioner, registering as provided in this article, shall pay a registration fee of \$15.00, which registration fee shall be paid to the city clerk. The registration fee may be adjusted by resolution of the city commission at any time at least 30 days prior to the commencement of the qualifying period for any election.

(c) *Qualification.* In order to register to run for the office of mayor-commissioner or commissioner, a person shall meet the qualifications of Section 12 of the Charter. At the time of registration, the person seeking office shall sign an affidavit in presence of the city clerk testifying under oath that such person meets the qualifications of Section 12 of the Charter.

(d) *Withdrawal.* 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. The name of any qualified candidate who has withdrawn or died at any time before the form for the election ballots are delivered to the printer for printing shall not be printed on the ballot. If the withdrawal or death of a qualified candidate following the end of the qualifying period results in only one candidate remaining for that office, no election for that office shall be required and the remaining candidate shall be declared elected and take office at the first city commission meeting following the date the regular general election was scheduled to occur.

(Ord. No. 08-40, § 2, 8-14-08; Ord. No. 22-08, § 2, 5-12-22)

Sec. 2-257. Election duties of the city clerk.

The city clerk shall serve as the supervisor of municipal elections and be responsible for the conduct of such elections in the manner prescribed by state law, the Charter, and this article; provided, however, the city commission may delegate any or all such municipal election duties or authority to the Orange County Supervisor of Elections as deemed necessary by the city commission. Unless otherwise determined by the city commission, the city clerk is authorized and directed to

prepare such forms and perform such ministerial duties as are required by this Chapter and the Florida Election Code in order to accomplish the intent and objectives of this Chapter and the Florida Election Code.

(Ord. No. 08-40, § 2, 8-14-08)

Charter reference—Art. IV, § 33(5).

Sec. 2-258. Florida Election Code.

The provisions of the Florida Election Code, Chapters 97-106, Florida Statutes which are particularly applicable to municipalities are hereby incorporated herein by reference. If any issues arise that are not settled by provisions of the city's Code, the city's Charter, or provisions of Florida Election Code that are particularly applicable to municipalities, such questions shall be governed by portions of the Florida Election Code applying to like situations involving county elections. In the application of Florida Election Code provisions involving county elections, the city clerk shall be substituted in lieu of the county supervisor of elections, the city canvassing board shall be substituted in lieu of county canvassing board and the city commission shall be substituted in lieu of the board of county commissioners whenever such substitution would give sense and meaning to such statutes insofar as the same would otherwise be applicable to municipal elections.

State law reference—Conduct of municipal elections, F.S. § 100.3605.

Secs. 2-259—2-275. Reserved.

DIVISION 2. INITIATIVE AND REFERENDUM

Sec. 2-276. Petitions—Generally.

(a) A petitioners' committee described in Section 56 of the Charter, or any other sponsor of any petition proposing an issue to be placed upon the ballot, other than recall of an elected official, shall, prior to obtaining any signatures, register with the city clerk as a political committee pursuant to F.S. § 106.03 and submit the text of such committee's proposal to the city clerk, with

the form on which the signatures shall be affixed, and shall obtain the approval of the clerk of such form.

(b) If a petition has signatures of electors to be verified, but does not propose a ballot issue or initiative or citizen referendum as described in Section 55 of the Charter, the sponsor of such petition shall not be required to register as a political committee, unless otherwise required by statute, or to submit the text to the city clerk for approval prior to circulating the petition. Such petition shall adhere to the requirements of Section 57 of the Charter concerning petition format. If the sponsor voluntarily submits the petition form to the city clerk for approval, the clerk shall proceed to approve or object to the form as a courtesy to the sponsor.

(c) The city clerk shall not review the accuracy, content or legal sufficiency of the text of the material submitted, but will examine to determine that the required format has been followed and shall approve or object to such material strictly on the basis of those criteria set forth in Section 57 of the Charter and in the manner prescribed by Section 58(1) of the Charter.

(Ord. No. 08-40, § 3, 8-14-08)

Charter reference—Art. IV.

State law reference—Political committees, F.S. § 106.03.

Sec. 2-277. Same—Form.

(a) Petition forms may be reproduced in newspapers, magazines and other forms of printed mass media, provided such forms are reproduced in the same format as approved by the city clerk.

(b) Any change in a previously approved form or additional types of petition forms to be circulated by a previously approved circulator shall be submitted in accordance with the Charter.

(Ord. No. 08-40, § 3, 8-14-08)

Charter reference—Art. IV

Sec. 2-278. Same—Verification.

(a) Registration books and files used in the checking of electors' signatures are in the custody of the supervisor of elections, who shall, with the city clerk, determine administrative procedures

used in the signature verification process under this division. Either of the following two methods for checking may be used:

- (1) A name-by-name, signature-by-signature check; or
- (2) A check of a random sampling, following the rules and guidelines as set forth in F.S. § 99.097.

(b) The sponsor(s) of the petition shall pay such sums as are allowed by state statute to the city clerk for each signature submitted for verification. Actual costs shall be determined at the conclusion of the process, and the sum per signature checked or the cost of checking, whichever is less, shall be charged and necessary adjustments made at the time of certification by the city clerk of the results of the signature verification. Any portion of these monies which shall be payable to the supervisor of elections by the clerk for participation of the supervisor's staff in the verification process shall be a transaction between the supervisor and clerk.

(c) Petition forms shall be retained by the clerk for a period of time as required by the director of archives, history and records management of the department of state.
(Ord. No. 08-40, § 3, 8-14-08)

Secs. 2-279—2-315. Reserved.

ARTICLE VI. CITY PROGRAMS

DIVISION 1. GENERALLY

Secs. 2-316—2-340. Reserved.

DIVISION 2. SENIOR CITIZENS ASSISTANCE PROGRAM

Sec. 2-341. Created; purpose.

There is created a senior citizens assistance program to provide financial assistance to needy senior citizens who qualify under this program.
(Code 1988, § 2-367)

Sec. 2-342. Application; eligibility requirements.

(a) Any city resident must file an application together with the applicant's prior year federal income tax return, or a current monthly income benefit statement(s) as identified in subsection (a)(3), on or before May 1 of each year, requesting participation in the senior citizens assistance program with the city manager, or his designee, and affirm therein that all of the following eligibility requirements are met:

- (1) The applicant is over the age of 65 years or over the age of 62 and is receiving social security benefits.
- (2) The applicant has been a continuous resident of the city for the last 12 months preceding the date of the application.
- (3) The applicant does not have a gross household income of more than 60 percent above the federal poverty income guideline published in the Federal Register. For the purpose of this program, the term "income" is defined as the return of money from one's business; labor or capital investment; and gains, profits or private revenue, including social security benefits.

(Code 1988, § 2-368; Ord. No. 03-03, 12-11-03; Ord. No. 24-47, § 1, 11-14-24)

Sec. 2-343. Verification of application.

Under this division, the city manager may require the applicant to furnish additional proof in verification of the application, such as water connection dates, birth certificate, property deed, mobile home title certificate and any other relevant document.

(Code 1988, § 2-369)

Sec. 2-344. Amount of assistance provided.

(a) Under this division, a qualified applicant shall be entitled to assistance on his utility bill, which may include water, irrigation, wastewater, stormwater, and garbage fees. Such assistance shall be limited to actual billings for such services made directly to the applicant, not to exceed 90 percent of the base rate.

(b) Charges billed indirectly to the applicant's landlord or other bases are ineligible under this program.

(Code 1988, § 2-370; Ord. No. 03-03, 12-11-03; Ord. No. 24-47, § 1, 11-14-24)

Sec. 2-345. Accounting for assistance.

The cost of the senior citizens assistance program shall be borne by the general fund and accounted through a special account designated "Senior Citizens Assistance Account."
(Code 1988, § 2-371)

Secs. 2-346—2-385. Reserved.

ARTICLE VII. EX PARTE COMMUNICATIONS*

Sec. 2-386. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Local public official means any elected or appointed public official holding municipal office who recommends or takes quasi-judicial action as a member of a board or commission.

(Code 1988, § 2-372)

Cross reference—Definitions generally, § 1-2.

Sec. 2-387. Access permitted; procedures.

Any person not otherwise prohibited by statute, Charter provision or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. There will be no presumption of prejudice arising from such ex parte communications with local public officials as long as the following procedures are followed:

- (1) The subject of the ex parte communication and the identity of the person, group or entity with whom the communication

took place must be disclosed and made part of the record before final action on the matter.

- (2) An ex parte written communication to or from a local public official that relates to quasi-judicial action pending before the board or commission shall either be made a part of the record or the material provisions of the written document shall be read into the record or summarized for the record before final action on the matter.
- (3) Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before their commission or board. Such activity shall not be presumed prejudicial if the existence of the investigation, site visit or expert opinion is made a part of the record before final action on the matter.
- (4) Disclosure made pursuant to subsections (1), (2) and (3) of this section must be made before or during the public meeting at which a vote is taken on such matters so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. The failure to comply with this section does not subject the local public official to F.S. § 112.311 et seq., or any other penalty, violation or adverse consequence.

(Code 1988, § 2-373)

Sec. 2-388. Forms.

For the purpose of this division, the following form is one form that may be used by city commissioners and all other city board and

***State law reference**—Ex parte communications, F.S. § 286.0115.