



city commission agenda

Discussion of
proposed
Charter
amendments
October 28, 2019
2:00 PM
Commission
Chambers

mayor & commissioners

seat 1
Gregory Seidel

seat 2
Sarah Sprinkel

Mayor
Steve Leary

seat 3
Carolyn Cooper

seat 4
Todd Weaver

1. Review of Charter Amendments

a. Review of Charter Amendments

90 minutes

Appeals and Assistance

"If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to 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." (F.S. 286.0105)

"Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-599-3277) at least 48 hours in advance of the meeting."



city commission **agenda item**

item type Review of Charter Amendments	meeting date 10/28/2019
prepared by Assistant City Manager	approved by
board approval	final vote
strategic objective	

subject

Review of Charter Amendments

motion / recommendation

background

alternatives / other considerations

fiscal impact

ATTACHMENTS:

Description	Upload Date	Type
Final Report and Recommendations by Charter Review Committee	10/21/2019	Backup Material
Charter - red-lined	10/21/2019	Backup Material
Commissioner Seidel proposed language for Board Appointments	10/21/2019	Backup Material
Charter Amendment Worksheet	10/22/2019	Cover Memo

CITY OF WINTER PARK
CHARTER REVIEW ADVISORY
COMMITTEE
FINAL REPORT AND
RECOMMENDATIONS

SEPTEMBER 20, 2019

**CITY OF WINTER PARK
CHARTER REVIEW ADVISORY COMMITTEE
FINAL REPORT**

INTRODUCTION

The Winter Park City Commission appointed a Charter Review Advisory Committee (CRC) to review the city's charter and make recommendations for changes deemed advisable. The members of the Charter Review Advisory Committee are:

Mr. Steve Brandon, Ms. Marjorie Bridges, Ms. Lisa Coney, Ms. Mary Daniels, Ms. Amanda Day, Mr. James Johnston, Mr. Bud Kirk, Jr., Mr. Lawrence Lyman, and Mr. Nick Pope.

The city contracted with Ms. Marilyn Crotty to facilitate the process. City Clerks Cindy Bonham and Rene Cranis served as secretaries to the committee and recorded the minutes. Ms. Kim Breland, Planning Department, also assisted with this task. City Attorneys Dan Langley and Kurt Ardaman provided legal assistance throughout the process. The CRC held ten meetings between April 23, 2019 and September 20, 2019. All meetings were publicly noticed with opportunities for comments from the public at each.

PROCESS

The Charter Review Advisory Committee adopted the following guidelines which were followed throughout the process:

- Start meetings on time/end meetings on time.
- Each meeting will last two hours, beginning at 6:00 p.m. and ending at 8:00 p.m.
- Consensus decision making will be used throughout the process with at least 75% of the members of the Committee agreeing on recommendations to forward to the City Commission.
- Issues that have been decided upon may be readdressed with the approval of 75% of the members of the Committee.
- This will be a facilitated process with no designation of a Committee Chair or Vice Chair.
- Time will be included on each agenda for public comment; once near the beginning of the meeting for approximately 10 minutes and again before adjournment for another 10 minutes. Speakers will be limited to two minutes each. An hour will be set aside for public comment at the third meeting (May 28)

and another hour for public comment will be included at a meeting near the end of the process.

- Members of the Committee will notify City staff in advance if they are unable to attend a meeting.
- Participation of members by telephone will be allowed if a quorum is physically present

The members of the CRC were provided copies of the “Model Charter, Eighth Edition” published by the National Civic League to use as a reference. Ms. Crotty provided additional background information on specific issues that were addressed.

The attached revised charter and report was approved by a unanimous vote of the seven CRC members present at its meeting on September 20, 2019.

RECOMMENDATIONS

The CRC reviewed the current Winter Park Charter that was last reviewed in 2009. The following is a brief description of the changes the CRC agreed upon, setting forth the rationale for the changes.

General Provisions – Language throughout the Charter has been revised to be gender neutral.

Preamble

The preamble to the charter was amended to include the words diverse and inclusive in the third sentence.

Article I. Change the title of this article from Generally to **Powers and Form of Government** which more accurately describes the content of this article.

Section 1.01. – Change title from Creation and Powers to **Creation, Powers, and Construction.** Add the following language to this section: The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article. This language clarifies the powers of the city will be interpreted in favor of the city and that the general power of the city is not limited.

Section 1.03. Change the title of this section from Charter Amendments to **Form of Government** and add the following: The City of Winter Park is a municipal corporation with a Commission-Manager form of government. This clearly identifies the city as a Commission-Manager form of government.

The existing Section 1.03 Charter Amendments is moved to Article V.

Section 2.03. Change title and add forfeiture process to assure that any elected official charged with forfeiture of office will receive due process.

Sec. 2.03 Judge of Qualification, Forfeiture, and Election of Members.

The City Commission shall be the judge of the qualifications of its Members and of the grounds for forfeiture of office, subject to review by the courts. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence. The City Commission shall use the following procedure when forfeiture of office for one of its members is considered:

- The accused Commissioner shall not be entitled to participate in the deliberations or decision in relation to the Commissioner's suspension or removal.
- A Mayor or Commissioner may only be removed from office by an affirmative vote of at least three (3) members of the existing membership eligible to vote for such action.
- Written notice, approved by at least three (3) members of the existing membership of the City Commission that are eligible to vote on the matter, must be delivered to the accused Commissioner who shall have an opportunity to be heard and defend against the accusation.
- Subsequent to written notice being delivered to the accused, the Commission by an affirmative vote of no less than three (3) of the members eligible to vote for such action, shall have the authority to suspend a Commissioner pending the disposition of charges for removal.
- The accused Commissioner shall have the right to defend against the charges as provided in this Section.
- Where a suspension of a Commissioner occurs pursuant to this section of the Charter, the suspended official shall have the right to an immediate hearing upon demand to determine if there is sufficient evidence to establish the following two elements: (1) that probable cause exists to believe that the charges are true; and (2) that, if true, the charges would be grounds for removal. This hearing shall be held and the matter decided by the City Commission. The rules of procedure shall be the same as those which apply to the hearing for removal.
- If the City Commission does not find by an affirmative vote of at least three (3) of the existing members of the Commission that are eligible to vote on the matter that the evidence produced at the hearing is sufficient to establish the aforementioned two elements, the suspension shall terminate immediately and the official shall be reinstated pending a final hearing on removal.
- A final hearing for removal must take place and a decision rendered within ninety (90) calendar days after receipt of the above-mentioned written notice unless both the City Commission, by majority vote of Commissioners eligible to vote on the matter, and the accused agree to extend the time.

- In order for the City Commission to remove the accused official from office, the Commission must find that the substantial competent evidence presented at the hearing supports the charges which are the basis for the removal proceeding.
- If, after the final hearing, the City Commission is unable to support such a finding by an affirmative vote of at least three (3) of the existing membership of the City Commission that is eligible to vote on the matter, any suspension of the accused shall terminate and the accused shall be reinstated to office for any unfinished portion of the official's term.
- During a hearing regarding suspension or removal, the accused shall have the right to present evidence and testimony and to cross examine witnesses.

The election canvassing board, as established under Section 3.04(e), shall be the judge of the election of the members of the City Commission, subject to review by the courts.

Section 2.05. Compensation.

Specify the base salary of the elected officials and provide for an annual increase or decrease based on the CPI. This will bring the salaries of Winter Park elected officials in line with like municipalities in the region and allow for gradual increases over time.

Sec. 2.05. Compensation. The base annual salary of City Commissioners shall be \$12,600. The base annual salary of the Mayor shall be \$15,000. The base salaries will go into effect October 1, 2020. The annual salaries of the Commissioners and Mayor shall increase or decrease annually based on the change in the Consumer Price Index (all Urban Consumers CPI), not to exceed five (5) percent of the annual salary. All CPI increases or decreases will be effective October of each year. The percentage of change will be based on the CPI change from April to April. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.06. Functions of Mayor; Vice Mayor

Changes the time for selection of Vice Mayor to the first regular Commission meeting after certification of all elections to allow for anyone elected in a run off to participate in the selection.

Section 2.07. Vacancies; Forfeiture of Office; Filling Vacancies.

- (b) Adds additional grounds for forfeiture of office to include violating the charter, conviction of a crime involving moral turpitude, and failure to attend three consecutive meetings without being excused by the city commission.
- (c) Changes the process for filling a vacancy if there are 60 days or less before a general election allowing the seat to remain vacant. If there are more than 60 days before the next election, the current process of appointment, by the Commission, to fill the vacancy remains.

Section 2.08. Procedure.

- (a) Meetings. Changes the requirement for calling a special or emergency meeting from one member of the Commission to the Mayor or any two members of the Commission. Also changes the advance notice for special meetings from 24 hours to 48 hours which is more in line with opinions from the Attorney General and allows more time for notification of the public and elected officials.
- (b) Rules ~~and Journal~~. Deletes reference to keeping a journal for a written record of all official acts as current technology allows for other methods of record keeping.
- (c) Voting. Removes the requirement for the affirmative vote of three members of the Commission to be physically present to adopt an ordinance or resolution. Instead, allows for the three affirmative votes to be from members who are present either in person or through the use of video conferencing. This acknowledges technological resources now available.

Section 2.10. Prohibitions. Revises the section into three sub-parts for clarification; changes the language regarding interference with administration; adds a prohibition on holding other compensated office with the city during their term of office; and provides for the appointment of current and former elected officials to serve on regional or intergovernmental boards.

Sec. 2.10. – Prohibitions.

- (a) Appointments and Removals. No individual members of the City Commission shall in any manner dictate the employment or removal of an employee, but the Commission and any of its members may express its views and fully and freely discuss among themselves at a public meeting, or with the City Manager or, in the case of civil service employees with the Civil Service Board, anything pertaining to the appointment or removal of such officers of the city.
- (b) Interference with Administration. Except for the purpose of inquiries and investigations under Sec. 2.19. or asking questions and gaining information to assist the members in the formulation of sound policies, the Commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately.
- (c) Holding Other Office. No Commission member shall hold any other compensated City of Winter Park office or employment during the term for which the member was elected to the Commission. No former elected city official shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected.
Nothing in this section shall be construed to prohibit the Commission from selecting any current or former member of the Commission to represent the City, without compensation, on the governing board of any regional or other intergovernmental agency.

Section 2.11. Ordinances in General.

In subsection (a) Procedures for Adoption, the requirement for a majority of the City Commission to be physically present on at least two separate days to adopt an ordinance will be amended to delete the words “physically present” to be consistent with the proposed change to Section 2.08 (c) above.

In subsection (b) Action Requiring an Ordinance, (7) Convey or lease or authorize by administrative action the conveyance or lease of *any lands* is changed to *real property* of the city to include other city assets.

Section 2.17. Annual Financial Audit.

Changes the length of the contract with an independent certified public accountant from three years to not more than five years. This provides for cost savings for the city.

Section 2.19 Investigations. New Section

The City Commission may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

This allows for oversight of city departments by the elected officials.

Section 3.01. Nonpartisan Elections.

Language is added to this section describing specific actions that are not allowed and allowing for fines and a procedure to be established by the city commission for violation of this provision.

(a) All qualifications and elections for the office of city commissioner or mayor shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation. Upon qualifying for office through the election, a candidate for the office of city commissioner or mayor shall not:

- (1) Campaign and or publicly represent or advertise herself or himself as a member of any political party,
- (2) Accept contributions from any political party.

(b) A candidate for commissioner or mayor who violates a provision of this section shall be liable for a civil fine of up to \$1,000 per violation. The City Commission shall adopt an ordinance describing the procedure to determine violations, provide due process, and set fines.

Section 3.03. Form of Ballots.

This section is revised to conform with state law and the authority of the Orange County Supervisor of Elections.

Sec. 3.03. Form of Ballots.

City elections shall be conducted in accordance with the general election laws of the State of Florida, Chapters 97-106, as amended. The Orange County Supervisor of Elections may control the form of the ballot including the method of listing candidates for city commission and mayor elections and any other city election.

The rest of this section is deleted.

Section 3.04. Elections.

Subsection (d) Poll Workers, is deleted in its entirety since this is controlled by state law and the supervisor of elections. Subsection (e) will be renumbered as (d).

Section 4.01. Generally.

The title of this section will be renamed City Manager to more accurately reflect the content of this section.

(b) Appoint department heads and the city clerk subject to the confirmation by majority vote of the entire city commission. This clarifies that at least three commissioners must confirm appointments.

The following changes to subsections (d), and (e) delete some references to the Civil Service Code. It is not the intent of the CRC to abolish the Civil Service Code or Civil Service Board. Rather, the CRC recommends that the current Civil Service Code, established in 1967, needs to be updated and modernized. References to the role of the city manager in relation to the Civil Service Code should be included in the Code and not in the charter.

(d) Employ, appoint or remove all other city employees. The city manager may delegate this authority to department heads, but no employee will be hired or removed without the city manager’s approval. Any removed noncivil service regular employee shall have the right to appeal such removal to an independent Personnel Review Board appointed by the city commission. In the case of employees covered by the Civil Service Code, ~~the department heads may employ or remove employees of their respective departments subject to approval by the city manager, but~~ such removed employees shall have the right to appeal under the provisions of the Civil Service Code. ~~This provision is not intended to modify or repeal the Civil Service Code.~~

(e) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided in this Charter, by the Civil Service Code, or by law. ~~The city manager shall have no operational control over the chiefs of the police and fire departments or members of those departments. The supervision, direction and control of the police and fire departments shall remain with the civil service board in accordance with the Civil Service Code.~~

Section 4.07. Police and Fire Departments.

This section will be renamed Civil Service Code. Language regarding provisions of the current Civil Service Code will be deleted and be replaced by a requirement that the electors of the city adopt a Civil Service Code. This provides a stronger mandate for the existence of a civil service code than is currently provided. The substitute section reads as follows;

Section 4.07. Civil Service Code.

There shall be a Civil Service Code adopted by the electors. At a minimum, the Civil Service Code shall set forth the terms of appointing a Civil Service Board whose purpose is to review and make recommendations on standard operating procedures of the police and fire departments and to serve as an appeals board for any disciplinary action resulting in a suspension of more than two (2) days, demotion, or termination of any sworn police and certified fire personnel.

Section 5.08. Action on Petitions.

Change the time frame in subsection (b) for a vote of the city from not later than 60 days to not later than 180 days in order to allow adequate time to set up a special election.

Section 5.10. Initiative, Referendum, Recall, and Charter Amendment.

This is a new section that replaces Sec. 1.03. All language in 1.03 remains intact except in subsection (b) (3), the time frame for an election after certification of petitions is changed from not later than 60 days to not later than 180 days allowing sufficient time to set up a special election,

Section 6.04. Schedule.

This section will be deleted because it is obsolete. The section will be held in reserve.

IMPLEMENTATION STRATEGIES

This report and the revised Charter are submitted to the City Commission for its review. The Commission may accept all, some, or none of the recommendations in the report.

If the City Commission wishes to place any of the recommendations on the ballot at the Presidential Preference Primary on March 17, 2020, it will need to adopt an ordinance that will include the ballot language. The usual process of two public hearings on the ordinance with an opportunity for public comment will be held and final approval from a majority of the Commission will be required to place any items on the ballot.

If the Commission places the adoption of any charter amendments on the ballot, the CRC suggests the City act to enable the voters to fully understand the proposed changes. The Charter Review Advisory Committee recommends that the City fund a community education program consisting, at a minimum, of the following: printed informational brochures (possibly mailed with utility bills); public forums; access to copies of the proposed charter changes; information on the city website and social media; and a speakers' bureau to inform voters of the proposed changes.

PART I - CHARTER AND RELATED LAWS

Subpart A - CHARTER^[1]

PREAMBLE

PREAMBLE

We the people of the City of Winter Park, Florida, under the authority of the constitution and laws of the State of Florida, adopt this Charter to define the powers and structure of this City and to secure the benefits of home rule. This action also affirms the values of a representative democracy, professional management, strong political leadership, high ethical standards, citizen participation, and regional cooperation. We desire for Winter Park to be the best place to live, work, and play in central Florida by creating an open, diverse, inclusive, and responsive government and preserving a superior quality of life for the current residents and future generations.

(Ord. No. 2790-09, § 2(Am. 1), 12-14-2009)

Footnotes:

--- (1) ---

Editor's note— Printed herein is the city charter, as adopted at referendum on November 8, 1983. Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

The City of Winter Park was originally incorporated under the general law on March 8, 1887. (See "Miscellaneous Record of Orange County," vol. 7, pp. 66, 536).

ARTICLE I. ~~GENERALLY~~ POWERS AND FORM OF GOVERNMENT

Sec. 1.01. ~~Creation and powers~~ Creation, Powers, and Construction.

The City of Winter Park is created which shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The powers of the city under this Charter shall be construed liberally in favor of the city, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

Sec. 1.02. - Corporate boundaries.

The corporate boundaries of the City of Winter Park shall remain as they exist on the date this amended Charter takes effect, provided that the city shall have the power to change its boundaries in the manner prescribed by law. A description of the corporate boundaries is on file in the City Clerk's office and available to the public.

(Ord. No. 2790-09, § 2(Am. 2), 12-14-2009)

Editor's note— Ord. No. 2790-09, § 2 (Am. 2), adopted Dec. 14, 2009, amended § 1.02 in its entirety and repealed § 1.02.1 in its entirety. The former §§ 1.02 and 1.02.1 pertained to similar subject matter and derived from the City Charter as adopted at referendum on Nov. 8, 1983; Ord. No. 1527, § 1, adopted Aug. 14, 1984; Ord. No. 1532, § 1, adopted Aug. 28, 1984; Ord. No. 1535, § 1, adopted Aug. 28, 1984; Ord. No. 1549, § 1, adopted Oct. 23, 1984; Ord. No. 1554, § 1, adopted Nov. 27, 1984; Ord. No. 1568, § 1, adopted Feb. 26, 1985; Ord. No. 1588, § 1, adopted Jul. 9, 1985; Ord. No. 1592, § 1, adopted Aug. 27, 1985; Ord. No. 1595, § 1, adopted Aug. 27, 1985; Ord. No. 1611, § 1, adopted Nov. 12, 1985; Ord. No. 1641, § 1, adopted Apr. 22, 1985; Ord. No. 1649, § 1, adopted June 24, 1986; Ord. No. 1661, § 1, adopted Aug. 26, 1986; Ord. No. 1675, § 1, adopted Oct. 14, 1986; Ord. No. 1699, § 1, adopted May 26, 1987; Ord. No. 1710, § 1, adopted Jul. 28, 1987; Ord. No. 1726, § 1, adopted Nov. 24, 1987; Ord. No. 1736, § 1, adopted Jan. 12, 1988; Ord. No. 1746, § 2, adopted Mar. 29, 1988; Ord. No. 1746, § 2, adopted Mar. 29, 1988; Ord. No. 1760, § 1, adopted June 28, 1988; Ord. No. 1763, § 1, adopted June 28, 1988; Ord. No. 1766, § 1, adopted June 28, 1988; Ord. No. 1771, § 1, adopted July 26, 1988; Ord. No. 1772, § 1, adopted July 26, 1988; Ord. No. 1777, § 1, adopted Aug. 23, 1988; Ord. No. 1740, § 1, adopted Aug. 23, 1988; Ord. No. 1802, § 1, adopted Dec. 20, 1988; Ord. No. 1818, § 1, adopted May 23, 1989; Ord. No. 1821, § 1, adopted May 23, 1989; Ord. No. 1844, § 1, adopted Sept. 26, 1989; Ord. No. 1846, § 1, adopted Sept. 26, 1989; Ord. No. 1855, § 1, adopted Nov. 28, 1989; Ord. No. 1871, § 1, adopted Mary 27, 1990; Ord. No. 1894, § 1, adopted Oct. 23, 1990; Ord. No. 1897, § 1, adopted Oct. 23, 1990; Ord. No. 1923, § 1, adopted Apr. 9, 1991; Ord. No. 1928, § 1, adopted Jul 9, 1991; Ord. No. 1933, § 1, adopted Aug. 23, 1991; Ord. No. 1946, § 1, adopted Nov. 12, 1991; Ord. No. 1965, § 1, adopted Feb. 25, 1992; Ord. No. 1956, § 1, adopted Jan. 14, 1992; Ord. No. 1961, § 1, adopted Jan. 14, 1992; Ord. No. 1982, § 1, adopted Aug. 11, 1992; Ord. No. 2032, § 1, adopted Feb. 22, 1994; Ord. No. 2033, § 1, adopted Feb. 22, 1994; Ord. No. 2041, § 1, adopted May 10, 1994; Ord. No. 2068, § 1, adopted Nov. 8, 1994; Ord. No. 2072, § 1, adopted Nov. 22, 1994; Ord. No. 2175, § 1, adopted Dec. 10, 1996; Ord. No. 2199, § 1, adopted Jul. 8, 1997; Ord. No. 2255, § 1, adopted May 12, 1998; Ord. No. 2286, § 1, adopted Oct. 27, 1998; Ord. No. 2313, § 1, adopted Sept. 28, 1999; Ord. No. 2347, § 1, adopted May 9, 2000; Ord. No. 2359, § 1, adopted Ju. 11, 2000; Ord. No. 2383, § 1, adopted Sept. 26, 2000; Ord. No. 2384, § 1, adopted Sept. 26, 2000; Ord. No. 2385, § 1, adopted Sept. 26, 2000; Ord. No. 2426, § 1, adopted Oct. 23, 2001 (Referendum); Ord. No. 2427-01, § 1, adopted Oct. 23, 2001; Ord. No. 2430-01, § 1, adopted Oct. 23, 2001 (Referendum); Ord. No. 2450-01, § 1, adopted Apr. 9, 2002 (Referendum); Ord. No. 2479-02, § 1, adopted Nov. 12, 2002; Ord. No. 2513-03, § 1, adopted Apr. 22, 2003; Ord. No. 2527-03, § 1, adopted Nov. 4, 2003 (Referendum); Ord. No. 2529-03, § 1, adopted Nov. 4, 2003 (Referendum); Ord. No. 2531-03, § 1, adopted Nov. 4, 2003 (Referendum); Ord. No. 2533-03, § 1, adopted Nov. 4, 2003 (Referendum); Ord. No. 2545-03, § 1, adopted Oct. 27, 2003; Ord. No. 2557-04, § 1, Exh. A,

adopted May 4, 2004 (Referendum); Ord. No. 2592-04, § 1, adopted July 26, 2004; Ord. No. 2625-05, § 1, adopted Apr. 25, 2005; Ord. No. 2634-05, § 1, adopted Jul. 11, 2005; Ord. No. 2644-05, § 1, adopted Sept. 12, 2005; Ord. No. 2476-06, § 1, adopted May 22, 2006; Ord. No. 2687, § 1, adopted Oct. 9, 2006; Ord. No. 2697-07, § 1, adopted Mar. 12, 2007; Ord. No. 2701-07, § 1, adopted Mar. 26, 2007; Ord. No. 2702-07, § 1, adopted Feb. 26, 2007; Ord. No. 2730-08, § 1, adopted Feb. 11, 2008; Ord. No. 2753-08, § 1, adopted Nov. 24, 2008.

Sec. 1.03. - Charter amendments Form of Government

- (a) ~~*Initiation by ordinance.* The commission may by ordinance propose amendments to any part or all of this Charter, except Section 1.02 prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for such purpose. Amendment of Section 1.02, resulting from annexation done in accordance with general law, shall be by ordinance of the commission and shall not be subject to a vote of the electors except as provided by general law.~~
- (b) ~~*Initiation by petition.* The electors of the city may propose amendments to this Charter by petition signed by at least ten (10) percent of the total number of qualified voters registered to vote in the last regular city election.~~
- (1) ~~*Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one 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 proposed charter amendment. The clerk or other official designated by the commission may, at an elector's request, issue the appropriate petition blanks to the elector at the elector's expense.~~
- (2) ~~*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 personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he 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 proposed charter amendment.~~
- (3) ~~*Certification of petition.* Upon certification of the sufficiency of the petition by the clerk or other official designated by the commission, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular city election, the commission shall place the proposed amendment to a vote of the electors not less than thirty (30) days and not later than sixty (60) days after certification. If no regular election is to be held within the period prescribed by this subsection, the commission shall provide a special election called for such purpose.~~
- (c) ~~*Charter Review.* The City Commission shall appoint a Citizens' Charter Review Advisory Committee to review this charter a minimum of every ten (10) years to~~

~~make recommendations, if any, to the city commission for possible submission to the voters.~~

~~(Ord. No. 2790-09, § 2(Am. 3), 12-14-2009)~~

The City of Winter Park is a municipal corporation with a Commission-Manager form of government.

Sec. 1.04. - Organization of city government.

The city commission shall divide the services and functions of the city into departments, and shall designate these by name and purpose.

Sec. 1.05. - Oath.

The mayor, each commissioner and all employees of the city shall take an oath to support, obey and uphold the laws of the City of Winter Park, the State of Florida and the United States of America.

ARTICLE II. - LEGISLATIVE

Sec. 2.01. - Commission created; composition; designation; election generally.

There is hereby created a city commission to consist of five (5) members, one of whom shall have the title of "mayor." The other four shall be known and designated as "commissioners," one of whom shall be elected vice mayor as set forth in Section 2.06. The city commission shall be elected at large and hold office in the manner hereinafter provided, and shall constitute the governing body and authority of the city, with all the powers and privileges herein granted and provided.

Sec. 2.02. - Qualifications.

Members of the city commission shall be residents of the city and shall have the qualifications of electors therein.

Sec. 2.03. - Judge of qualification, forfeiture, and election ~~and qualification~~ of members.

The city commission shall be the judge of the qualification of its own members and of the grounds for forfeiture of office, subject to review by the courts. In order to exercise these powers, the Commission shall have power to subpoena witnesses, administer oaths, and require the production of evidence. The City Commission shall use the following procedure when forfeiture of office for one of its members is considered:

- The accused Commissioner shall not be entitled to participate in the deliberations or decision in relation to the Commissioner's suspension or removal.
- A Mayor or Commissioner may only be removed from office by an affirmative vote of at least three (3) members of the existing membership eligible to vote for such action.

- Written notice, approved by at least three (3) members of the existing membership of the City Commission that are eligible to vote on the matter, must be delivered to the accused Commissioner who shall have an opportunity to be heard and defend against the accusation.
- Subsequent to written notice being delivered to the accused, the Commission by an affirmative vote of no less than three (3) of the members eligible to vote for such action, shall have the authority to suspend a Commissioner pending the disposition of charges for removal.
- The accused Commissioner shall have the right to defend against the charges as provided in this Section.
- Where a suspension of a Commissioner occurs pursuant to this section of the Charter, the suspended official shall have the right to an immediate hearing upon demand to determine if there is sufficient evidence to establish the following two elements: (1) that probable cause exists to believe that the charges are true; and (2) that, if true, the charges would be grounds for removal. This hearing shall be held and the matter decided by the City Commission. The rules of procedure shall be the same as those which apply to the hearing for removal.
- If the City Commission does not find by an affirmative vote of at least three (3) of the existing members of the Commission that are eligible to vote on the matter that the evidence produced at the hearing is sufficient to establish the aforementioned two elements, the suspension shall terminate immediately and the official shall be reinstated pending a final hearing on removal.
- A final hearing for removal must take place and a decision rendered within ninety (90) calendar days after receipt of the above-mentioned written notice unless both the City Commission, by majority vote of Commissioners eligible to vote on the matter, and the accused agree to extend the time.
- In order for the City Commission to remove the accused official from office, the Commission must find that the substantial competent evidence presented at the hearing supports the charges which are the basis for the removal proceeding.
- If, after the final hearing, the City Commission is unable to support such a finding by an affirmative vote of at least three (3) of the existing membership of the City Commission that is eligible to vote on the matter, any suspension of the accused shall terminate and the accused shall be reinstated to office for any unfinished portion of the official's term.
- During a hearing regarding suspension or removal, the accused shall have the right to present evidence and testimony and to cross examine witnesses.

The election canvassing board, as established under Section 3.04(e), shall be the judge of the election of the members of the city commission, subject to review by the courts.

Sec. 2.04. - Term of office.

- (a) *Term.* The term of office of any person or persons elected commissioner or mayor at any general election held in the city shall be three (3) years and shall commence and begin on the date of the first city commission meeting following certificate of the election results.
- (b) *Term limits.* Consecutive terms of any Member of the City Commission and the mayor shall be limited to four (4) consecutive full terms in office, either as Mayor or Commissioner or any combination thereof. The time served by a person appointed, or elected to fill a vacancy on the City Commission shall not constitute a full term of office. The time served by a City Commissioner or Mayor who resigns or otherwise vacates office shall constitute a full term in office regardless of the time served.

(Ord. No. 2055, § 2, 8-9-94; Ord. No. 2222, § 2, 10-14-97; Ord. No. 2758-09, § 2(Exh. B), 3-10-09; Ord. No. 2790-09, § 2(Am. 4) 12-14-2009)

Sec. 2.05. - Compensation.

~~The Commission may determine the annual salary of the Mayor and Commissioners by ordinance, but no ordinance increasing the salary shall have an effective date prior to March 10, 2011. The base annual salary of City Commissioners shall be \$12,600. The base annual salary of the Mayor shall be \$15,000. The base salaries will go into effect October 1, 2020. The annual salaries of the Commissioners and Mayor shall increase or decrease annually based on the change in the Consumer Price Index (all Urban Consumers CPI), not to exceed five (5) percent of the annual salary. All CPI increases or decreases will be effective October of each year. The percentage of change will be based on the CPI change from April to April. The Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.~~

~~(Ord. No. 2790-09, § 2(Am. 5) 12-14-2009)~~

Sec. 2.06. - Functions of mayor; vice mayor.

The mayor shall be a voting member of the commission. At the first regular commission meeting in April in a year when there is no election or after certification of all elections in years when there is an election, the commission shall elect one of its members as vice mayor. The mayor shall preside at meetings of the commission, shall be recognized as head of city government for all ceremonial purposes, by the governor for purposes of military laws, for execution of contracts, deeds and other documents and as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities. ~~He~~ The mayor shall annually appoint members of the city boards subject to the approval of the commission. ~~He~~ The mayor shall have no other administrative duties except as required to carry out the responsibilities herein. The vice mayor shall act as mayor during the absence or disability of the mayor. In case of the death, resignation, or removal of the

mayor, the vice mayor shall vacate the office of vice mayor and serve as mayor until the next general city election when the office of mayor shall be filled for the balance of any unexpired term. If the vice mayor does not qualify as a candidate for the vacant office of mayor at the next general city election, then upon the newly elected mayor assuming office, the vice mayor shall reassume ~~his~~ the prior office of commissioner and serve for the balance of ~~his~~ the unexpired term as commissioner. If the vice mayor does qualify as a candidate for the vacant office of mayor, then ~~his~~ that commission seat shall become vacant to be filled in the manner hereinafter provided.

(Ord. No. 2055, § 3, 8-9-94)

Sec. 2.07. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of a commissioner or the mayor shall become vacant upon ~~his~~ the death, resignation, removal from office in any manner authorized by law or forfeiture of ~~his~~ the office, such forfeiture to be declared by the remaining members of the commission.
- (b) *Forfeiture of office.* A commissioner or the mayor shall forfeit ~~his~~ their office if ~~he~~ the mayor or commissioner:
- 1) lacks at any time during ~~his~~ their term of office any qualification for the office prescribed by this Charter or by law,
 - 2) violates any express prohibition of this charter,
 - 3) is convicted of a crime involving moral turpitude, or
 - 4) fails to attend three (3) consecutive regular meetings of the commission without being excused by the commission.
- (c) *Filling vacancies.* If a vacancy occurs in the seat of a Commissioner sixty (60) days or less before the next general election, the remaining Members of the Commission shall may appoint, by majority vote, a qualified person to fill the vacancy until the next general election. If the vacancy occurs more than sixty (60) days before the next general election, the remaining members of the Commission shall appoint, by majority vote, a qualified person to fill the vacancy until the next general election at which time a successor will be elected to serve the remainder of the unexpired term. In the event the remaining Members are deadlocked and unable to choose a successor by a majority vote, then the remaining Commissioners, excluding the Mayor, shall each submit the name of a proposed successor, and the Mayor shall appoint the successor from those names submitted. Notwithstanding any quorum requirements established herein, if at any time the membership of the Commission is reduced to less than a quorum, the remaining Members of the commission may by majority vote, appoint additional Members.
- (d) *Extraordinary vacancies.* In the event that all members of the commission are removed by death, disability, law or forfeiture of office, the governor shall appoint an

interim commission that shall serve until the next general city election, at which time such vacancies shall be filled for the balance of the unexpired terms.

(Ord. No. 2790-09, § 2(Am. 6), 12-14-2009)

Sec. 2.08. - Procedure.

- (a) *Meetings.* The commission shall meet regularly at least once every month at such time and public place as the commission may prescribe by rule. Special and/or emergency meetings may be held upon call of ~~any~~ the mayor or any two (2) members of the commission. Special meetings require ~~twenty-four (24)~~ forty-eight (48) hours advance notice to each member of the city commission and to the public. Emergency meetings require, when practicable, twelve (12) hour notice to each member of the city commission and to the public and shall be called only to consider a public emergency affecting life, health, property or the public peace. Notice to the public consists of posting notice at some designated, conspicuous place in front of City Hall. A proposed agenda for all meetings shall also be posted in this same location as soon as practicable before each meeting, but in any event not later than twenty-four (24) hours for each regular and special meeting. Failure to list a specific item on an agenda shall not affect the validity of any act of the city commission. In the event any regular, special or emergency meeting is to be adjourned to reconvene at a later time, the date, time and place of reconvening shall be announced prior to such adjournment.
- (b) *Rules ~~and journal.~~* The commission shall determine its own rules and order of business. ~~A journal shall be kept in which shall be maintained a written record of all official acts of the commission.~~ Minutes shall be kept of all commission proceedings.
- (c) *Voting.* Voting on ordinances and resolutions shall be by roll call vote of the Commissioners and the Mayor and shall be recorded in the ~~journal~~ minutes. The affirmative vote of three (3) members of the City Commission who are ~~physically~~ present at the meeting either in person or through the use of video-conferencing, shall be necessary to adopt any ordinance or resolution. No other action of the commission except as provided in sections 2.07 and in 2.08(d) shall be valid or binding unless adopted by the affirmative vote of a majority of a quorum present.
- (d) *Quorum.* A majority of the commission must be physically present to constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the commission.

(Ord. No. 2790-09, § 2(Am. 7), 12-14-2009)

Sec. 2.09. - City attorney.

The city attorney shall be appointed and removed by the city commission.

Sec. 2.10. - Prohibitions.

- (a) ~~*Interference with administration.* No individual member of the city commission shall in any manner dictate the employment or removal of an employee, but the commission and any of its members may express its views and fully and freely discuss among themselves or with the city manager or, in the case of civil service employees with the civil service board, anything pertaining to the appointment or removal of such officers and employees. No individual member of the city commission shall give orders to any officer or employee of the city. Nothing in the foregoing is to be construed to prohibit individual members from closely scrutinizing officers and employees of the city by questions and personal observations, nor to prohibit individual members of the commission from closely scrutinizing by questions and personal observation all aspects of city government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the commission. Recommendations for improvements in the city government operations shall come through the city manager, or through the civil service board, but the commission, by majority vote, is free to direct the city manager or the civil service board to implement specific recommendations for improvement in city operations.~~
- (b) ~~*Holding other office.* No former elected city official shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected.~~

(Ord. No. 2790-09, § 2(Am. 8), 12-14-2009)

- (a) *Appointments and Removals.* No individual members of the City Commission shall in any manner dictate the employment or removal of an employee, but the Commission and any of its members may express its views and fully and freely discuss among themselves at a public meeting, or with the City Manager or, in the case of civil service employees with the Civil Service Board, anything pertaining to the appointment or removal of such officers of the city.
- (b) *Interference with Administration.* Except for the purpose of inquiries and investigations under Sec. 2.19. or asking questions and gaining information to assist the members in the formulation of sound policies, the Commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately. Recommendations for improvement in the city government operations shall come through the city manager, or through the civil service board, but the commission, by majority vote, is free to direct the city manager or the civil service board to implement specific recommendations for improvement of city operations.
- (c) *Holding Other Office.* No commission member shall hold any other compensated City of Winter Park office or employment during the term for which the member was elected to the commission. No former elected city official shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which elected.

Nothing in this section shall be construed to prohibit the Commission from selecting any current or former member of the Commission to represent the City, without compensation, on the governing board of any regional or other intergovernmental agency.

Sec. 2.11. - Ordinances in general.

As used in this section, "ordinance" means an official legislative action of the commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

- (a) *Procedures for adoption.* Ordinances shall be adopted in accordance with the procedures and notice requirements provided by general law, provided further that a proposed ordinance shall be adopted when it has been read, by title or in full, and has received the affirmative vote of a majority of the city commission ~~physically present~~ on at least two (2) separate days at either regular or special meetings of the commission. If there is a change in substance in the text, then the reading at the time of change will be deemed the first reading.
- (b) *Action requiring an ordinance.* In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the city commission shall be by ordinance which:
- (1) Adopt or amend an administrative code or establish or abolish any city department or agency;
 - (2) Establish a rule or regulation the violation of which carries a penalty;
 - (3) Levy taxes authorized by general law;
 - (4) Grant, renew or extend a franchise;
 - (5) Set service or user charge for municipal services or grant administrative authority for such charges;
 - (6) Authorize the borrowing of money not inconsistent with the limitations in the Constitution, the general laws of the state, and the provisions of this charter;
 - (7) Convey or lease or authorize by administrative action the conveyance or lease of ~~any lands~~ real property of the city;
 - (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article V;
 - (9) Establish zoning.

(Ord. No. 2790-09, § 2(Am. 9), 12-14-2009)

Sec. 2.12. - Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the commission may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of Article II of this Charter.

- (a) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- (b) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members of the commission shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.
- (c) *Effective date.* Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.
- (d) *Repeal.* Every emergency ordinance except emergency appropriations shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.
- (e) *Emergency appropriations.* The commission may make emergency appropriations in the manner provided in this section. To the extent that there are no available unappropriated revenues to meet such appropriations, the 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 not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Sec. 2.13. - Budget adoption.

The commission shall by ordinance adopt the budget in accordance with the provisions of the general laws of the state. If it fails to adopt the budget by the prescribed date, the commission by resolution may direct that amounts appropriated for current operations by the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days with all items in it prorated accordingly, and until such time as the commission adopts a budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriations of the amounts specified therein for expenditures from the funds indicated.

Sec. 2.14. - Borrowing.

The city commission shall have the authority to borrow money, contract loans and issue bonds in accordance with the provisions of the Constitution of the State of Florida and the general laws of the state. However, approval by voter referendum shall be required prior to the issuance of any of the following categories of bonds:

- (1) General obligation bonds which pledge the full faith and credit of the taxing power of the city,
- (2) Revenue bonds intended to finance enterprises or projects which involve the purchase, lease and/or acquisition of real property by the city or agencies thereof, or
- (3) Revenue bonds which pledge specific non ad valorem taxes as the primary source(s) of revenue to pay the principal and interest and which have a principal value in excess of one (1) million dollars. This dollar limitation shall be adjusted annually as of the end of each fiscal year in accordance with changes in the cost-of-living index as published by the federal government.

However, notwithstanding the foregoing in paragraphs (2) and (3) above, voter referendum approval shall not be required prior to the issuance of revenue bonds which finance the purchase, lease and/or acquisition of park real property and/or park projects by the city or agencies thereof.

(Ord. No. 2555-04, § 2, Exh. A, 3-9-04(Referendum))

Sec. 2.15. - Investments.

The investment of city funds shall be in accordance with state statutes.

Sec. 2.16. - Transfer or other use of sewer and refuse fee funds.

Transfer or use of collected sewer fee funds for other than sewer purposes must be approved by a voter referendum. Transfer or use of collected refuse fee funds for other than refuse purposes must be approved by voter referendum. Otherwise, sewer funds may be used only for sewer purposes, and refuse funds may be used only for refuse purposes.

Sec. 2.17. - Annual financial audit.

In accordance with the general laws of the state, there shall be an annual financial audit to be completed, within six (6) months after the end of the fiscal year, by an independent certified public accountant. The city commission shall institute a competitive selection process and to this end shall establish an auditor selection board consisting of five (5) members. One (1) member of this board shall be a city commissioner appointed by the commission. The remaining four (4) members shall be residents of the city who have the qualifications of electors therein and are not city employees. This board shall be charged with the responsibility to solicit proposals and

to screen and evaluate the proposals received. The auditor selection board shall submit its recommendations to the city commission which shall then select an auditor and award a contract for a term not to exceed ~~three (3)~~ five (5) years.

Sec. 2.18. - Local code of ethics.

Local Code of Ethics. The city commission shall adopt by ordinance and maintain a local code of ethics.

(Ord. No. 2790-09, § 2(Am. 12), 12-14-2009)

Section 2.19 Investigations.

The City Commission may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

ARTICLE III. - NOMINATIONS AND ELECTIONS

Sec. 3.01. - Nonpartisan elections.

All qualifications and elections for the office of city commissioner or mayor shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation. Upon qualifying for office through the election, a candidate for the office of city commissioner or mayor shall not:

- (1) Campaign and or publicly represent or advertise herself or himself as a member of any political party.
- (2) Accept contributions from any political party.

(b) A candidate for commissioner or mayor who violates a provision of this section shall be liable for a civil fine of up to \$1,000 per violation. The City Commission shall adopt an ordinance describing the procedure to determine violations, provide due process, and set fines.

Sec. 3.02. - Qualifications.

Candidates for the office of city commissioner or mayor shall qualify for such office by filing a written notice of candidacy with the city clerk at such time and in such manner as may be prescribed by ordinance.

Sec. 3.03. - Form of ballots.

City elections shall be conducted in accordance with the general election laws of the State of Florida, Chapters 97-106, as amended. The Orange County sSupervisor of eElections may control the form of the ballot including the method of listing candidates for city commissioner and mayor elections and any other city election. If such form is not prescribed by the supervisor of elections, then the city commission by ordinance shall

~~prescribe the form of the ballot. A charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but a ballot title shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear language which will enable a voter of reasonable intelligence to vote for or against the proposed measure. A sample ballot and verbatim text of any amendment or measure to be voted upon shall be available for free distribution at city hall at least seven (7) working days before the election day and also available for review at the polling place. A sample ballot shall be published in a newspaper of general circulation prior to the day of the election, but no more than ten (10) days prior to the election. This provision shall be deemed complied with if the state causes a publication of a sample ballot prior to a city election. Such publication shall be conspicuous and not be included within the routine legal notices and advertisements.~~

(Ord. No. 2758-09, § 2(Exh. B), 3-10-09)

Sec. 3.04. - Elections.

- (a) *General city election.* If more than one person qualifies as candidate for the office of city commissioner for any designated seat of the city commission to be filled or for the office of mayor, there shall be a general election which shall be held on the second Tuesday in March. If any candidate in the general election receives a majority of the votes cast for a designated seat, such candidate shall be declared elected and shall assume office in accordance with Section 2.04 of this Charter. If no candidate receives a majority of votes cast for a designated seat, the two (2) persons receiving the highest number of votes cast shall be declared candidates for a run-off election to be held in accordance with subparagraph (c) of this Section, and the person then holding such seat shall continue to serve on a temporary basis until the seat is filled via the run-off election.
- (b) *Unopposed candidates.* In the event not more than one person qualifies as a candidate for a designated city commissioner seat or for mayor, such candidate shall be declared elected without the necessity of being voted upon in the general city election and shall assume office at the same time and in the same manner as those elected in the general city election.
- (c) *Run-off election.* If no candidate receives a majority of votes cast for a designated seat in the general city election, the two (2) persons receiving the highest number of votes cast for such seat shall be declared candidates in a run-off election to be held on the second Tuesday in April. The candidate who receives the majority of the votes cast in the run-off election shall be declared elected and shall assume office on the date of the first City Commission meeting following certification of the run-off election results. The term of office for such prevailing candidate shall run until the date on which such term would have expired if the prevailing candidate had been elected in the general election.
- (d) ~~*Poll workers.* At each polling place, there shall be a sufficient number of poll workers to handle the anticipated number of voters. The supervisor of elections may~~

~~determine the necessary number of poll workers for any election. If the supervisor of elections fails to determine such number of poll workers, then the city clerk shall determine the appropriate number of poll workers. The supervisor of elections (or the city clerk, as applicable) shall report the number of poll workers together with the names of the poll workers to the city commission prior to the date of the election. The supervisor of elections shall appoint the poll workers when a city election is held in conjunction with a state election conducted by the supervisor of elections. The supervisor of elections may also elect to appoint the poll workers for any other City election. If the supervisor of elections has not elected to appoint the poll workers for any city election that is not held in conjunction with a state election, then the city commission shall appoint the poll workers for such city election. At a city election not held in conjunction with a state election, a deputy sheriff need not be appointed for each polling place.~~

(ed) *Canvassing board.* For any city election, the city commission shall appoint three (3) of its members to be the canvassing board. No commissioner or mayor shall participate in the canvassing of the returns of an election for which said commissioner or mayor is a candidate or subject to recall. For any disqualified city commissioner or mayor, the city clerk shall act as the alternate canvassing board member.

(Ord. No. 2055, § 1, 8-9-94; Ord. No. 2222, § 1, 10-14-97; Ord. No. 2758-09, § 2(Exh. B), 3-10-09; Ord. No. [3056-16](#), § 2, 11-28-16, ref. 3-14-17)

Sec. 3.05. - City commissioner seats.

City commissioner seats are hereby designated as Seats No. 1, 2, 3 and 4 for the purpose of identification. Each candidate for the office of city commission shall declare at the time of qualification the seat to which such candidate seeks election.

ARTICLE IV. - ADMINISTRATION

Sec. 4.01. - ~~Generally:~~ City Manager

There shall be a city manager who shall be the administrative head of the city. The city manager shall be responsible to the city commission for the administration of all city affairs placed in his the city manager's charge by or under this Charter or by direction of the city commission. The manager must take up residence in the City of Winter Park within one (1) year after the appointment unless otherwise waived by the unanimous approval of the city commission.

Sec. 4.02. - Appointment.

The commission shall appoint a city manager by a majority vote of all the commission members.

Sec. 4.03. - Removal.

The commission may remove the city manager by a majority vote of all the commission members.

Sec. 4.04. - Compensation.

The compensation of the manager shall be prescribed by the commission.

Sec. 4.05. - Powers and duties.

The city manager shall:

- (a) See that all laws and ordinances are enforced.
- (b) Appoint department heads and the city clerk subject to the confirmation by a majority vote of the entire city commission.
- (c) Remove department heads and the city clerk subject to the right of those individuals to appeal such removal to the city commission. In the case of civil service employees, such removed department heads must first exhaust their remedies under the Civil Service Code. This provision is not intended to modify or repeal the Civil Service Code.
- (d) Employ, appoint or remove all other city employees. The city manager may delegate this authority to department heads but no employee will be hired or removed without the city manager's approval. Any removed noncivil service regular employee shall have the right to appeal such removal to an independent Personnel Review Board appointed by the city commission. In the case of employees covered by the Civil Service Code, ~~the department heads may employ or remove employees of their respective departments subject to approval by the city manager, but such removed employees shall have the right to appeal under the provisions of the Civil Service Code. This provision is not intended to modify or repeal the Civil Service Code.~~
- (e) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided in this Charter, by the Civil Service Code, or by law. ~~The city manager shall have no operational control over the chiefs of the police and fire departments or members of those departments. The supervision, direction and control of the police and fire departments shall remain with the civil service board in accordance with the Civil Service Code. (See Section 4.07.)~~
- (f) In the event of a dire emergency requiring the services of two or more departments, the city manager shall be the coordinating authority of the departments, responding to such emergencies, and the various department heads, including the chiefs of police and fire departments, are obligated to cooperate with the city manager.
- (g) Formulate and review annually a personnel policy for recommendation to the city commission dealing with removal policy, discipline policy, and grievance procedures.

- (h) Organize the departments created by the city commission, except for the police and fire departments which shall be organized in accordance with the provisions of the Civil Service Code. (See Section 4.07.)
- (i) Attend meetings of the city commission. The city manager may participate in discussions but he shall have not vote.
- (j) Prepare and recommend to the city commission the annual budget. The city manager will also recommend to the city commission the capital program for the city. The city manager is responsible for the administration of the budget and capital program.
- (k) Prepare and submit to the city commission an annual report for the financial and administrative activity of the city for the preceding fiscal year.
- (l) Prepare and submit to the city commission current reports on all matters affecting policy and such other reports as the commission may require concerning the operation of the city departments and offices which are under the city manager's supervision.
- (m)) Keep the commission fully advised as to the financial condition and future needs of the city and make such recommendations to the commission concerning the affairs of the city as he the manager deems desirable.
- (n) Keep the public informed, through reports to the commission, regarding the operations of the city government.
- (o) Perform such other duties as are specified in this charter or as may be required by the city commission.

Sec. 4.06. - Acting city manager.

By letter filed with the commission the city manager shall designate, subject to approval of the commission, a qualified city administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or such disability shall cease.

Sec. 4.07. - ~~Police and fire departments.~~ Civil Service Code

~~Pursuant to the provisions of the Civil Service Code the chiefs of the police and fire departments shall be in command of the said police and fire departments and they shall be responsible to the civil service board for the performance of their duties. The civil service board shall continue to have the power and duty to prescribe rules and regulations for the conduct and direction of members of the police and fire departments, their duties, hours of work, discipline and control, and shall be responsible for insuring that the functions and duties of the police and fire departments shall at all times be compatible with the other branches of the city government.~~

There shall be a Civil Service Code adopted by the electors. At a minimum, the Civil Service Code shall set forth the terms of appointing a Civil Service Board whose

purpose is to review and make recommendations on standard operating procedures of the police and fire departments and to serve as an appeals board for any disciplinary action resulting in a suspension of more than two (2) days, demotion, or termination of any sworn police and certified fire personnel.

Sec. 4.08. - Reserved.

Editor's note— Ord. No. 2790.09, § 2, Am. 11, adopted Dec. 14, 2009, repealed § 4.08 in its entirety, which pertained to public safety director and derived from Ord. No. 1665, §§ 1, 2, adopted Sept. 23, 1068.

ARTICLE V. - INITIATIVE, REFERENDUM AND RECALL

Sec. 5.01. - Initiative.

The qualified voters of the city shall have power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election.

Sec. 5.02. - Referendum.

The qualified voters of the city shall have the power to require reconsideration by the 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.

Sec. 5.03. - Recall.

The qualified voters of the city shall have the power to recall and to remove from office any elected official of the city as provided by general law.

Sec. 5.04. - Commencement of proceedings.

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the clerk or other official designated by the commission an affidavit stating 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 one street address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or 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. 5.05. - Petitions.

- (a) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least ten (10) percent of the total number of qualified voters registered to vote at the last regular city election.

- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one 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.
- (c) *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 personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he 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.
- (d) *Time for filing referendum petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.

Sec. 5.06. - Procedure for filing.

- (a) *Certificate of clerk; amendment.* Within twenty (20) days after the petition is filed (five (5) working days for a referendum), the city clerk or other official designated by the commission 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 certified mail. Grounds for insufficiency are only those specified in Section 5.05. 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 commission within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of Section 5.05, and within five (5) days after it is filed the clerk or other official designated by the commission 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 certified mail as 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 petitioners' committee does not elect to amend or request commission review under subsection (b) of this section within the time required, the clerk or other official designated by the commission shall promptly present the certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition.
- (b) *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) days after receiving the copy of such certificate, file a request that it be reviewed by the commission. The 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.

Sec. 5.07. - Referendum petitions; effect on ordinances.

When a referendum petition is filed with the clerk or other official designated by the commission, the ordinance sought to be reconsidered shall nevertheless be deemed a valid and effective ordinance unless and until it is repealed by the commission or a vote of the electors of the city.

Sec. 5.08. - Action on petitions.

- (a) *Action by commission.* When an initiative or referendum petition has been finally determined sufficient, the 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, it shall submit the proposed or referred ordinance to the voters of the city.
- (b) *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 ~~sixty (60)~~ one hundred eighty (180) days from the date that the petition was determined sufficient. 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; 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 for inspection at the office of the city clerk or other designated official not less than five (5) days prior to the election and at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the date scheduled for a vote of the city by filing with the clerk or other official designated by the commission a request for withdrawal signed by at least four-fifths (4/5) of the members 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. 5.09. - Results of election.

- (a) *Initiative.* If a majority of the qualified electors 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 commission. However, no ordinance adopted by an electoral vote shall be repealed or amended except by an electoral vote. The commission may, by ordinance, submit to the electors a proposed ordinance to repeal or amend any such ordinance. 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.

- (b) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Sec. 5.10. Initiative, Referendum, Recall, and Charter Amendments.

- (a) *Initiation by ordinance.* The commission may by ordinance propose amendments to any part or all of this Charter, except Section 1.02 prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for such purpose. Amendment of Section 1.02, resulting from annexation done in accordance with general law, shall be by ordinance of the commission and shall not be subject to a vote of the electors except as provided by general law.
- (b) *Initiation by petition.* The electors of the city may propose amendments to this Charter by petition signed by at least ten (10) percent of the total number of qualified voters registered to vote in the last regular city election.
- (1) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one 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 proposed charter amendment. The clerk or other official designated by the commission may, at an elector's request, issue the appropriate petition blanks to the elector at the elector's expense.
- (2) *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 personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he 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 proposed charter amendment.
- (3) *Certification of petition.* Upon certification of the sufficiency of the petition by the clerk or other official designated by the commission, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular city election, the commission shall place the proposed amendment to a vote of the electors not less than thirty (30) days and not later than ~~sixty (60)~~ one hundred eighty (180) days after certification. If no regular election is to be held within the period prescribed by this subsection, the commission shall provide a special election called for such purpose.
- (c) *Charter Review.* The City Commission shall appoint a Citizens' Charter Review Advisory Committee to review this charter a minimum of every ten (10) years to make recommendations, if any, to the city commission for possible submission to the voters.

ARTICLE VI. - TRANSITION

Sec. 6.01. - Continuation of former charter provisions.

All provisions of Chapter 26317, Laws of Florida 1949, (the former charter) as amended by special law or otherwise which are not embraced herein and which are not inconsistent with this Charter shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

Sec. 6.02. - Ordinances preserved.

All ordinances, including the Civil Service Code, in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

Sec. 6.03. - Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of this Charter.

Sec. 6.04. - ~~Schedule.~~ Reserved.

- ~~(a) — *Elections.* Members of the city commission holding office under the former charter at the time this Charter becomes effective shall continue in office until the expiration of the terms to which they were elected. At an election to be held on the first Tuesday after the first Monday in November, 1984, there shall be elected a mayor to serve for a period of three (3) years. At an election to be held on the first Tuesday after the first Monday in November, 1985, there shall be elected two (2) commissioners for Seats Nos. 3 and 4 to serve for a period of three (3) years. At an election to be held on the first Tuesday after the first Monday in November, 1986, there shall be elected two (2) commissioners for Seats Nos. 1 and 2 to serve for a period of three (3) years. Henceforth, such elections shall continue in the same order.~~
- ~~(b) — *Time of taking full effect.* This Charter shall be in full effect for all purposes on or after November 22, 1983.~~
- ~~(c) — *First commission meeting.* On the 22nd day of November, 1983, the city commission shall meet at 4:30 p.m. at Winter Park City Hall and shall organize in accordance with the provisions of Article II of this Charter.~~
- ~~(d) — *Transition ordinances.* The city commission shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted under this Charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures in Article II, except that transition ordinances shall be effective for up to ninety (90) days after enactment. Thereafter, such ordinances may be readopted, renewed or otherwise continued only in the manner prescribed for normal ordinances in Article II.~~

Sec. 6.05. - Deletion of obsolete schedule items.

The commission shall have power, by resolution, to delete from this Article VI any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.

Sec. 6.06. - Invalid or unconstitutional provisions.

If any section, part, clause or phrase hereof is held for any reason to be invalid or unconstitutional, the remaining provisions shall not be affected but will remain in full force and effect.

CHARTER LANGUAGE FOR BOARDS

Current language –

The Mayor shall annually appoint members of the city boards subject to the approval of the commission.

Suggestion –

Strike this sentence and replace with a new section below 2.06

City Boards – Quasi-Judicial Boards shall have seven members. 3 members shall be appointed by the Mayor and serve at the Mayor's pleasure. 1 member shall be appointed by each Commissioner and serve at that Commissioner's pleasure. Appointments shall be put in place at the 2nd board meeting after the election of the seat. All other boards sizes and appointments shall be at the discretion of the Commission.

Information

Current Quasi-Judicial Boards include –

1. Board of Adjustments
2. Historic Preservation Board
3. Lakes and Waterways Advisory Board
4. Planning and Zoning Board

Charter Recommendation	Possible Combine	Accept	Reject	Discuss	Comments	Prepare for Ordinance Y/N/Delay
General Provisions – gender neutral language	1					Y
Preamble – add diverse and inclusive	1					Y
Article I. – Change title from Generally to Powers and Form of Government	1					Y
1.01 – add ...powers under the charter shall be construed liberally in favor of the city...	1					Y
2.06 – Change time for election of Vice Mayor to first regular meeting after certification of all elections	4					Y
2.17 -length of contract for independent audit from 3 to 5 yrs	5					Y
3.03 – revised to conform with the state law and Orange County Supervisor of Elections.	4					Y
3.04 – deleted as controlled by state law and supervisor of elections	4					Y
4.01 – rename from Generally to City Manager	5					Y
6.04 – delete this section because it is obsolete.	1					Y
1.03 – Change title to Form of Government and identify Commission-Manager form of gov.	1			Y		
2.03 – Change title and add forfeiture process	3			Y		
2.05 – Establish a base compensation for Mayor and Commissioners and a method for annual adjustment	2			Y		

2.07 – (b) Adds grounds for forfeiture; (c) changes process for filling a vacancy	3			Y		
2.08 – (a) changes requirements for calling a special meeting (b) Deletes reference to Journal (c) modifies voting to three affirmative votes from members present or using video conferencing	1 &4			Y		
2.10 - Revises the section into three sub-parts for clarification; changes the language regarding interference with administration; adds a prohibition on holding other compensated office with the city during their term of office; and provides for the appointment of current and former elected officials to serve on regional or intergovernmental boards.	3			Y		
2.11 – remove physically present from voting requirements to adopt an ordinance; change “any land” to “real property”	5			Y		
2.19 – create new section, Investigations	3			Y		
3.01 - identifies actions not allowed in nonpartisan election and creates a method for commission to establish fines	7			Y		
4.05 – Powers and duties of City Manager. (b) add majority vote of the entire commission (d&e) delete some references to Civil Service	8			Y		
4.07 – rename from Police and Fire Departments to Civil Service Code; add a requirement that the electors of the city adopt a Civil Service Code	8			Y		
5.08 – change time from 60 to 180 days	6			Y		
5.10 – add new section to replace section 1.03	1			Y		