

**ORDINANCE NO. 2790-09**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, SUBMITTING TO THE ELECTORS OF WINTER PARK PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF WINTER PARK AT THE REGULAR CITY ELECTION TO BE HELD MARCH 9, 2010; PROVIDING BALLOT TITLES, SUMMARIES AND TEXT FOR THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR THE CALL OF A REFERENDUM ELECTION; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, EFFECTIVE DATE OF ORDINANCE AND AN EFFECTIVE DATE FOR THE APPROVED AMENDMENTS.**

**WHEREAS**, the City Commission of Winter Park established a comprehensive public review process of the existing City Charter; and

**WHEREAS**, the Charter Review Advisory Committee established by the City of Winter Park conducted a comprehensive review and update of the City of Winter Park City Charter and in the course of that review considered the Model City Charter published by the National Civic League; and

**WHEREAS**, the charter review process was designed to provide an open, objective and deliberative process during which ample opportunity was provided for the public to participate in a comprehensive study of the City Charter; and

**WHEREAS**, the Charter Review Advisory Committee established by the City of Winter Park consisted of seven Winter Park residents: James Johnston, Dori Madison, Ken Murrah, Gene Randall, John Stevens, Joe Terranova and Mark Van Valkenburgh; and

**WHEREAS**, the Charter Review Advisory Committee was assigned the task of making a recommendation to the City Commission regarding the changes the Advisory Committee recommended be made to the existing City Charter; and

**WHEREAS**, the City Commission also appointed several technical advisors consisting of the Assistant City Manager, City Attorney, and Project Coordinator, Marilyn Crotty, Florida Institute of Government at the University of Central Florida, who proffered her expertise and recommendations during the entire charter review process; and

**WHEREAS**, after conducting public meetings and holding extensive debate regarding the changes that the Committee recommended should be made to the City Charter, and after considering public comment, the Charter Review Advisory Committee did recommend certain revisions to the City Charter in the form of its final report; and

**WHEREAS**, on November 9, 2009, the City Commission accepted with changes the final report issued by the Charter Review Advisory Committee; and

**WHEREAS**, as a result of the input, recommendations, and advice received during the charter review process and after careful deliberation and consideration, the City Commission finds that it is in the best interest of the public health, safety, and welfare of the citizens of Winter Park to propose certain revisions to the Winter Park City Charter in accordance with the provisions of the Winter Park Charter permitting revision and amendment, and Section 166.031, Florida Statutes; and

**WHEREAS**, the City Commission finds that the proposed referendum ballot questions should be submitted to the City electorate for its consideration and final approval or disapproval; and

**WHEREAS**, the City Commission of the City of Winter Park desires to put to a vote of the citizens the issue of whether the Charter should be changed according to recommendations made by the Charter Review Advisory Committee as amended by the City Commission; and

**WHEREAS**, Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality proposed amendments to its charter, which amendments may be to any part or all of the city charter, except that part describing the boundaries of such municipality; and

**WHEREAS**, the City Commission finds it to be in the best interest of its citizens to submit said proposed charter amendments to the voters at the City election to be held on March 9, 2010.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, AS FOLLOWS**

**SECTION 1. Referendum Election.** The City Commission of the City of Winter Park, pursuant to Section 166.031, Florida Statutes, hereby proposes and approves amendments to the Charter of the City of Winter Park, which proposed amendments and the complete text thereof, as amended, are set forth below. The text of the amendments reflect the proposed changes by showing additions with underlining and deletions with ~~strike-through~~ type. Each question shall be voted on separately and approved or disapproved based on its own merit. Such election shall be held in conformity with the laws of the State of Florida. The Supervisor of Elections of Orange County is hereby requested to coordinate all matters of said referendum election with the City Clerk. The proposed Charter amendments shall be submitted to the voters at an election to be held on March 9, 2010.

**SECTION 2. Amendments to City Charter.** The ballot titles, questions and proposed Charter changes are set forth as follows:

**CITY CHARTER AMENDMENT 1:**

**AMENDING THE CHARTER TO ADD A PREAMBLE**

Shall the Charter be amended to add a Preamble to set forth the authority of the Charter, identify the powers and purposes of the City of Winter Park, and to identify the purposes of the Charter which shall include the continued improvement of Winter Park so that it will be a city of the highest quality that will preserve a superior quality of life for the current residents and future generations?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**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 and responsive government and preserving a superior quality of life for the current residents and future generations.**

**CITY CHARTER AMENDMENT 2:**

**SIMPLIFICATION OF THE CHARTER RELATING TO THE LEGAL BOUNDARIES OF THE CITY OF WINTER PARK**

Shall Section 1.02 of the Charter be simplified and shortened by removing the lengthy legal description of the corporate boundaries and city limits of the City of Winter Park from the text of the Charter, and, by substituting in place of the unnecessary legal description a simple statement that tells the citizens where they may review and receive the legal description of the corporate boundaries of the City of Winter Park?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 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.**

**CITY CHARTER AMENDMENT 3:**

**CREATION OF CITIZENS' CHARTER REVIEW ADVISORY COMMITTEE**

Shall the Charter be amended to add a provision to Section 1.03, requiring the appointment of a Citizens' Charter Review Advisory Committee at least every ten years for the purpose of reviewing the Charter and recommending changes, if any, that should be submitted to the voters for approval?

Yes \_\_\_\_\_

No \_\_\_\_\_

**Section 1.03. Charter amendments.**

**(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.**

**CITY CHARTER AMENDMENT 4:**

**TERM OF OFFICE AND TERM LIMITS**

Shall Section 2.04 of the Charter be amended to clarify that the time served by a person appointed or elected to fill a vacancy on the Commission shall not constitute a full term, but the time served by a Commissioner/Mayor vacating office shall constitute a full term in office regardless of the time served, for determining the term limits of the Commissioner/Mayor, which shall be a limit of four (4) consecutive full terms?

Yes \_\_\_\_\_

No \_\_\_\_\_

**Section 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. ~~No member of the city commission shall serve more than four (4) consecutive terms in office, either as mayor or commissioner or any combination thereof.~~

(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.

**CITY CHARTER AMENDMENT 5:**

**DETERMINATION OF COMPENSATION FOR THE MAYOR AND COMMISSIONERS**

Shall the Charter be amended to provide that the City Commission may determine the annual salary of the Mayor and Commissioners by ordinance, but no increase in salary shall become effective until March 10, 2011 or thereafter, and providing that the Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 2.05. Compensation.**

~~The annual salary of the city commissioners shall be \$2,400, and the annual salary of the mayor shall be \$3,000. The salary of the city commissioners and the mayor shall be paid in equal monthly installments.~~ 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 Mayor and Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

**CITY CHARTER AMENDMENT 6:**

**SIMPLIFICATION OF THE PROCEDURE BY WHICH VACANCIES IN OFFICE SHALL BE FILLED**

Shall Section 2.07 of the Charter be amended to simplify the procedure for filling a vacancy in office by providing if a vacancy occurs in the Commission, the remaining members shall appoint a qualified person to fill the vacancy until the next general election; and, if there is deadlock, then the remaining Commissioners excluding the Mayor shall submit names of proposed successors and the Mayor shall appoint the successor from the submittals?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 2.07. Vacancies; forfeiture of office; filling of vacancies.**

(No change to (a), (b) or (d), but (c) is amended as follows:)

~~(c) *Filling vacancies.* A vacancy on the commission shall be filled in one of the following ways: (i) if there are less than six (6) months before the next general city election, the commission by a majority vote of the remaining members shall choose a successor to serve until said election, at which time the vacancy shall be filled for the balance of any 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; (ii) if no general city election is scheduled within six (6) months, the commission shall fill the vacancy on an interim basis as provided for in (i), and shall schedule a special election to be held not sooner than sixty (60) days, nor more than ninety (90) days following the occurrence of the vacancy and if a primary election is necessary, it shall be scheduled two (2) weeks prior to the special election. 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 under either (i) or (ii) above.~~ **If a vacancy occurs in the seat of a Commissioner, 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.**

**CITY CHARTER AMENDMENT 7:**

**PROCEDURE FOR VOTING ON ORDINANCES/RESOLUTIONS TO REQUIRE MAJORITY VOTE BY COMMISSIONERS WHO ARE PHYSICALLY PRESENT**

Shall Section 2.08 of the Charter be amended to require that ordinances and resolutions may only be adopted by a majority vote of members of the Commission who are physically present?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 2.08. Procedure.**

(No change to (a) or (b), but (c) and (d) are amended as follows:)

(c) *Voting.* Voting on ordinances and resolutions shall be by roll call vote of the Commissioners and the Mayor present and shall be recorded in the journal. The affirmative vote of three (3) members of the City Commission who are physically present at the meeting 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 ~~shall~~ 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.

**CITY CHARTER AMENDMENT 8:**

**PROHIBITIONS**

Shall Section 2.10(a) of the Charter be amended to clarify that no individual member of the City Commission shall give orders to officers or employees of the City, and, to provide that the Commission by majority vote may direct the Manager or Civil Service Board to implement specific recommendations for improvement in City operations?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 2.10. Prohibitions.**

(No change to (b), but (a) is amended as follows:)

(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 prohibited 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 ~~each member of 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 government operations.

**CITY CHARTER AMENDMENT 9:**

**ORDINANCES IN GENERAL**

Shall Section 2.11(a) of the Charter be amended to provide that an ordinance shall only be adopted by the affirmative vote of a majority of the City Commission members who are physically present at two or more regular or special meetings of the Commission?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 2.11. Ordinances in general.**

(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.

**CITY CHARTER AMENDMENT 10.**

**SUPER MAJORITY VOTE TO CHANGE TEXT OF FUTURE LAND USE ELEMENT OF COMPREHENSIVE PLAN**

Shall Section 2.11(b) of the Charter be amended to add a subsection 10 which will provide that any change to the objectives, goals or policies in the Future Land Use Element of the Comprehensive Plan may be made only by an affirmative vote in support of such change by a minimum of four votes of Commission Members who are physically present at the meeting when the vote is taken?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section 2.11. Ordinances in general.**

(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 of the city;
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article V;
- (9) Establish zoning;
- (10) Amend the Comprehensive Plan. However, notwithstanding the general requirement that ordinances are adopted by the majority vote of Members who are physically present at the meeting, any ordinance that amends or changes any objectives, goals or policies in any part of the Future Land Use Element of the Comprehensive Plan shall be adopted by a minimum of four votes of the Commission Members who are physically present at the meeting at which such vote is taken.

**CITY CHARTER AMENDMENT 11.**

**DELETION OF THE PUBLIC SAFETY DIRECTOR POSITION FROM THE CHARTER**

Shall the Charter be amended to delete Section 4.08 which allows for the office of a Public Safety Director as this position is not in effect and is unnecessary to be included within the Charter?

Yes \_\_\_\_\_  
 No \_\_\_\_\_

~~Section 4.08. Public safety director.~~

~~The city commission is authorized to create the office of public safety director who shall, notwithstanding any provisions of this Charter or the Code of Ordinances to the contrary, be in command of the police and fire departments and to whom the police and fire chiefs shall be answerable. The public safety director shall be appointed by the city manager and confirmed by a majority vote of the city commission. The public safety director shall come within the provisions of the Civil Service Act and of the Civil Service Code as they may be from time to time amended, and shall be responsible to the civil service board for the performance of his duties.~~

**CITY CHARTER AMENDMENT 12.**

**ETHICS**

Shall the Charter be amended to provide for the adoption and maintenance of a local code of ethics?

Yes \_\_\_\_\_  
No \_\_\_\_\_

**Section \_\_\_\_\_ . Local code of ethics:**

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

**SECTION 3.** The City Clerk is hereby directed to insure that all advertising, translation and notice requirements are complied with and to coordinate all activities necessary to conduct the referendum election called for in Section 1 of this Ordinance with the Supervisor of Elections for Orange County, and to place the above-described questions on the ballot for a referendum election to be held on March 9, 2010, or as otherwise worded in an enabling resolution of the City Commission as may be needed to conform to the requirements of the Florida Election Code or to better state the proposals submitted to the electors of the City of Winter Park.

**SECTION 4.** The proposed amendments, the ballot titles and the wording of the substance of the proposed amendments to the Charter, as contained in this Ordinance, shall appear on the ballot in the form of questions as set forth in Section 2 of this Ordinance.

**SECTION 5. Conflicts.** All ordinances and Charter provisions or parts of ordinances and Charter provisions in conflict herewith are hereby repealed.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof or hereto. Further, the lack of approval by a majority of electors of one or more separate amendments to this Charter, as set forth in Section 2 hereinabove, shall not be deemed to affect the validity of any amendments that may be approved by a majority of the electors.

**SECTION 7. Codification.** It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance approved by the electors shall become and be made a part of the Code of Ordinances of the City of Winter Park, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; that the word "ordinance" may be changed to "section", "article", or other appropriate word.

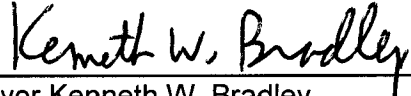
**SECTION 8. Effective Date of Ordinance.** This Ordinance shall take effect immediately upon its final passage and adoption.

**SECTION 9. Effective Date of Charter Amendments.** The revised charter provisions proposed for approval in this Ordinance shall become effective upon their approval at a referendum election of the electors of the City of Winter Park, Florida in accordance with Section 166.031, Florida Statutes and Section 1.03 of the City Charter providing for Charter amendments. If the electors reject an amendment, the rejected amendment shall not take effect. The City Clerk is hereby directed, upon adoption of the revised Charter, to renumber the Charter to logically organize all Charter amendments, and to promptly file the revised Charter with the State of Florida, Department of State, as required by Section 166.031, Florida Statutes.

**FIRST READING** this 23<sup>rd</sup> day of November, 2009.

**SECOND READING** this 14<sup>th</sup> day of December, 2009.

**PASSED AND ADOPTED** this 14<sup>th</sup> day of December, 2009, by the City Commission of the City of Winter Park, Florida.

  
\_\_\_\_\_  
Mayor Kenneth W. Bradley

Attest:   
\_\_\_\_\_  
City Clerk Cynthia Bonham