

ORDINANCE NO. 3056-16

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, PROPOSING AN AMENDMENT TO THE CITY CHARTER ELIMINATING PRIMARY ELECTIONS FOR CANDIDATES FOR CITY COMMISSION AND MAYOR AND PROVIDING FOR RUN-OFF ELECTIONS; SUBMITTING PROPOSED CHARTER AMENDMENT TO A VOTE BY THE ELECTORS OF WINTER PARK VIA REFERENDUM AT THE GENERAL CITY ELECTION TO BE HELD MARCH 14, 2017; PROVIDING FOR AMENDMENT TO DEFINITIONS AND OTHER PROVISIONS OF CHAPTER 42 OF THE CITY CODE REGARDING CITY ELECTIONS IF THE CHARTER AMENDMENT IS ADOPTED; PROVIDING FOR THE REFERENDUM BALLOT QUESTION FOR THE PROPOSED CHARTER AMENDMENT; PROVIDING FOR DIRECTION TO THE CITY CLERK; PROVIDING FOR MODIFICATION BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND EFFECTIVE DATES OF THE ORDINANCE, CHARTER AMENDMENT, AND CITY CODE AMENDMENTS.

WHEREAS, Section 3.04 of the City Charter provides for and requires a primary election for the selection of candidates for the offices of City Commissioner and Mayor, to be held on the second Tuesday in February, prior to the City's general election; and

WHEREAS, the City Commission finds that it is in the best interests of the residents of Winter Park that Section 3.04 of the City Charter be amended to eliminate primary elections for candidates for City Commissioner and Mayor and instead provide for a run-off election to be held after the City's general election, on the second Tuesday in April, if no candidate for a particular seat receives a majority of the vote in the general election; and

WHEREAS, in accordance with Section 1.03(a) of the City Charter and Section 166.031, Florida Statutes, the City Commission may propose an amendment to the City Charter via ordinance and submit such amendment for referendum vote by the electors of the City of Winter Park; and

WHEREAS, in order to ensure consistency between the City Charter and City Code, this Ordinance also provides for amendment of certain provisions of Chapter 42 of the City Code, which governs City elections, to take effect when and if the proposed Charter Amendment is adopted.

NOW, THEREFORE, be it enacted by the City Commission of the City of Winter Park, Florida, as follows:

Section 1. Findings of Fact. The foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this ordinance.

Section 2. Amendment to City Charter. The City Commission of the City of Winter Park hereby proposes and approves an amendment to Article III, Section 3.04 of the City Charter (the "Charter Amendment"), as set forth below (words that are ~~stricken out~~ are deletions; words that are underlined are additions).

Sec. 3.04. - Elections; ~~primaries.~~

(a) ~~Primaries~~General city election. If more than ~~one~~two persons qualifyes as candidates 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 ~~primary~~general election which shall be held on the second Tuesday in ~~March~~February. If any candidate in the ~~primary~~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, 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 a general city election. 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.~~each of such designated seats and shall be voted upon at the general city 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 ~~either the primary election or 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) ~~General city~~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 MarchApril. 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.~~Candidates for the office of city commissioner and for mayor shall be elected on the second Tuesday in March unless previously elected as above provided.~~

(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.

(e) *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.

Section 3. Referendum. The City Commission, pursuant to Section 166.031, Florida Statutes and Section 1.03(a) of the Winter Park City Charter, hereby calls a referendum election, to be held concurrently with the City's general election on March 14, 2017 (the "Referendum"), whereby the electors of the City of Winter Park shall vote on the Charter Amendment. The Charter Amendment shall be adopted if it receives a majority of the votes cast in the Referendum as to the Charter Amendment.

Section 4. Ballot Question. The ballot title and summary to be placed on the ballot and voted upon in the Referendum shall be in substantially the following form:

Proposed City Charter Amendment
Article III, Section 3.04

Shall the City of Winter Park amend Article III, Section 3.04 of its Charter, as provided in Ordinance No. _____, to eliminate primary elections for selection of candidates for City Commissioner and Mayor and instead provide for a run-off election between the two candidates receiving the most votes for a seat if no candidate for such seat receives a majority of the vote in the general election?

Yes ____ or No ____

Section 5. Amendment to City Code. In the event that the proposed amendment to the City Charter is approved and adopted by the electors of the City of Winter Park at the Referendum, Sections 42-1, 42-8, and 42-10 of the City Code shall be amended as follows (words that are ~~stricken out~~ are deletions; words that

are underlined are additions; ellipses (" . . . ") are used to separate the relevant Code Sections and are not part of the City Code).

Sec. 42-1. - Definitions.

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

Election means any primary election, special election, special primary election, run-off election, or general ~~city~~ election.

General ~~city~~ election means an election held on the second Tuesday in March.

Newspaper of general circulation means a newspaper printed in English which is readily available for purchase by all residents of the city, but does not mean a newspaper intended primarily for members of a particular professional or occupational group or a newspaper, the primary function of which is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

Primary election means an election held preceding the general city election to narrow the number of candidates for any office down to two.

Qualification deadline means no later than 12:00 noon of the ~~thirty-fifth~~ forty-ninth day prior to the date of the general election, ~~primary election or special primary election date in the year of such election~~. If the ~~thirty-fifth~~ forty-ninth day prior to the date of the general election ~~primary election or special primary election date~~ is a legal holiday as defined by the city, or under the law of the State of Florida, then the qualification deadline shall mean no later than 12:00 noon of the first non-holiday business day immediately preceding the ~~thirty-fifth~~ forty-ninth day prior to the date of the ~~primary election or special primary election date in the year of such election~~. The 12:00 noon qualification deadline shall be treated as a jurisdictional deadline, which means that all qualification documents and matters required in order to qualify for office shall be properly completed and filed with the city clerk by such deadline without exception. The jurisdictional nature of this deadline, and the requirements that all matters must be properly completed and filed with the city clerk before the qualification deadline, are incorporated by reference each time the term "Qualification Deadline" is used in this chapter. The qualification deadline for city elections other than the general election shall be the same as the above, relative to the date of such other election, unless otherwise determined by the City Commission via resolution or ordinance.

Qualification documents means all documents required by the Florida Election Code, Chapters 97 through 106, and this chapter.

Qualification period means that period that is between 12:00 noon of the business day that is five business days immediately preceding the qualification deadline and the qualification deadline. In each year of an election, the city clerk shall determine the qualification deadline and will begin the qualification period such that candidates shall have five business days, beginning at 12:00 noon on the first business day of the qualification period, in which to qualify. The beginning and ending times and dates of the qualification period shall be treated as jurisdictional, which means that all qualification documents and matters required in order to qualify for office must be properly completed and filed with the city clerk by the qualification deadline, as that term is defined in this section. The jurisdictional nature of this deadline, and the requirements that all matters must be properly completed and filed with the city clerk before the qualification deadline, are incorporated by reference each time the term "qualification period" is used in this chapter.

Run-off election means an election held after the general election or other applicable election in the event that no candidate receives a majority vote, the candidates for which run-off election are the two candidates receiving the highest number of votes in the general election or other applicable election.

Special election means an election held other than at the time scheduled for a general city election for the purpose of filling a vacancy on the city commission.

Special primary election means an election two weeks prior to a special election to narrow the number of candidates for the vacant office down to two.

. . .

Sec. 42-8. - Names on ballots.

(a) The city clerk shall have ballots printed for use in all elections and shall place on the ballots ~~for general city elections or special elections~~ the names of the candidates qualifying for each designated office.

(b) When three or more candidates have qualified for a designated office, the city clerk shall place the names of each of them on the ballots for the applicable election ~~primary or special primary elections~~.

(c) Candidates for each designated office shall be listed in alphabetical order. Names appearing on the ballots shall be as they appear on the candidates' applications.

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Sec. 42-10. – Elections in the years of federal presidential preference primary elections.

(a) In those years in which there is a federal presidential preference primary election in the State of Florida on any the last Tuesday in January or another date as may be established by governing Florida law, the city's general city election provided for in Article III of the City Charter, in accordance with governing Florida law, shall be held concurrently with the federal presidential preference primary election. For those general elections subject to this section, the ~~primary election~~run-off election, if needed, shall be held on the second Tuesday in ~~December of the prior year~~the month following the month of such general election or on another date as determined by the City Commission by resolution or ordinance. The city clerk shall establish an appropriate qualifying period given these election dates and the other provisions of this Code.

(b) The Orange County Canvassing Board is hereby authorized to canvass the City of Winter Park ballots voted in the city general election set in accordance with this section.

(c) Terms of office are not affected by this section, and will begin and end as provided by the City Charter or other applicable law.

~~(d) The city clerk is hereby directed to provide a certified copy of this ordinance to the Orange County Supervisor of Elections within ten days from its date of adoption.~~

Section 6. Instructions to City Clerk. 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 with the Supervisor of Elections for Orange County, and to place the above-described question on the Referendum ballot. If the Charter Amendment is adopted, and after it is incorporated into the City Charter, the City Clerk shall file the revised City Charter with the Department of State in accordance with Section 166.031(2), Florida Statutes.

Section 7. Modification by City Commission. The City Commission is authorized, to the extent consistent with the City Charter and applicable laws, to modify by resolution the ballot question provided for herein, and to modify or provide for by resolution any procedural or notice requirement for the conduct of

the Referendum, all as the City Commission may deem advisable to ensure compliance with applicable laws and to ensure voters are fully informed as to the Referendum and the substance of the Charter Amendment.

Section 8. Conflicts. In the event of a conflict or conflicts between this Ordinance, including the Charter Amendment if adopted, and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

Section 9. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including the Charter Amendment if adopted, 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 unless such would defeat the purpose of this Ordinance or the Charter Amendment.

Section 10. Codification. In the event that the Charter Amendment is adopted by the electors of the City of Winter Park at the Referendum, the Charter Amendment shall be incorporated into the City Charter, and the amendments to the City Code described in Section 5 of this Ordinance shall be incorporated into the City Code. Any section, paragraph number, letter and/or any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical and similar or like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 11. Effective Dates. This Ordinance shall take effect immediately upon its final passage and adoption. The Charter Amendment shall take effect immediately upon adoption by the electors of the City of Winter Park at the Referendum, but shall have no effect on the City's 2017 general election nor the validity of any primary election held pursuant to the City Charter as it existed prior to adoption of the Charter Amendment. The amendments to the City Code described in Section 5 of this Ordinance shall take effect immediately upon adoption of the Charter Amendment and shall have no effect if the Charter Amendment is not adopted.

PASSED AND ADOPTED this 28th day of November, 2016 by the City Commission of the City of Winter Park, Florida.

Attest: 
City Clerk Cynthia Bonham


Mayor Steve Leary