



For more information, Contact:
Angee Grimmage, City Clerk
City of Winter Garden
300 West Plant Street
Winter Garden, FL 34787
407.656.4111 ext. 2297
cityclerk@cwgd.com

CHARTER REVIEW COMMITTEE

BOARD MEMBERS

Steve Ambielli	Andy Davis
Doug Bartow	Christopher Lee
Derek Blakeslee	Millie Lord
Larry Cappleman	Ed McKinney
Phil Cross	Ron Mueller

OTHER ATTENDEES

Dan Langley – City Attorney
Drew Smith – Facilitator
Mike Bollhoefer – City Manager
Angee Grimmage – City Clerk
Venice Alexander – Recording Clerk

RE: **AGENDA – July 22, 2019 - 5:30 PM**
City Hall - Commission Chambers
300 West Plant Street, Winter Garden

1. **CALL TO ORDER**
Determination of Quorum
2. **APPROVAL OF MINUTES – June 24, 2019**
3. **PUBLIC COMMENT** (*Limited to 3 minutes per speaker*)
4. **Article III – CITY MANAGER**
Sec. 26 – Appointment of city manager; written contract
Sec. 27 – Removal of city manager
Sec. 28 – Qualifications
Sec. 29 – Absence, disability or suspension
Sec. 30 – Powers and duties
Sec. 31 - Reserved
5. **Article IV – CITY DEPARTMENTS AND OFFICERS**
Sec. 32 – Department organization
Sec. 33 – City clerk
Sec. 34 – City attorney
Sec. 35 – Police department; chief of police
Sec. 36–37 Reserved
6. **GENERAL DISCUSSION**
7. **ADJOURNMENT - 7:30 PM** – to a regular Charter Review Committee meeting on Monday, **August 12, 2019** at 5:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st Floor



City of Winter Garden

CHARTER REVIEW COMMITTEE

Regular Meeting Minutes

June 24, 2019

A **REGULAR MEETING** of the Winter Garden Charter Review Committee (CRC) was called to order by CRC Chairperson Derek Blakeslee at 5:30 p.m. at 300 West Plant Street, Winter Garden, Florida.

ATTENDANCE/ROLL CALL:

BOARD MEMBERS – PRESENT

Steve Ambielli	Andy Davis
Doug Bartow	Christopher Lee
Derek Blakeslee	Ed McKinney
Larry Cappleman	Ron Mueller
Phil Cross	

OTHER ATTENDEES

Dan Langley – City Attorney
Drew Smith – Facilitator
Angee Grimmage – City Clerk
Venice Alexander – Recording Clerk

ABSENT: Millie Lord

1. Call to Order

The meeting was called to order and a quorum was determined.

2. Approval of Minutes

Motion by CRC Member Mueller to approve regular meeting minutes of June 10, 2019 as submitted. Seconded by CRC Member Cappleman. CRC Member Bartow clarified that his motion was to limit the public comment to three minutes per speaker. **Motion carried unanimously 9-0.**

3. Public Comment - There were none.

4. Article I – Incorporation; Form of Government; Powers

Facilitator Smith clarified how proceedings of this meeting would move forward. There were no noted objections and the following items were covered:

Sec. 1 - **Reaffirming the existing boundaries of the municipality** - *No noted changes.*

Sec. 2 - **Form of government**

There was discussion on the composition of the current city commission and when redistricting would become necessary as this item may come up again later in the charter.

Sec. 3 - **Powers of city; general** - *No noted changes.*

Sec. 4 - **Present ordinances continued in force** - *No noted changes.*

Sec. 5 - Sale of alcoholic beverages

CRC Member Bartow inquired as to how the sale of Cannabis products would be addressed. **CRC Chairperson Blakeslee** also inquired as to how the cannabis issue had been treated in the City's ordinances at this point. **City Attorney Langley** responded that there is a citywide prohibition on dispensaries. The legislature pre-empted all local regulation of cannabis and dispensaries with the limited exception that they allow cities to prohibit or ban them. He expressed that he is uncertain that the charter would be an appropriate place for addressing such a fast moving issue. He explained that there is not really the ability to regulate distance separation other than the State law requiring dispensaries be located a certain amount of distance away from schools.

Facilitator Smith indicated that alcohol and beverages are regulatory and not usually placed in a charter. Some concerns and implications it could have, making it subject to court challenge, are the zoning aspects. An example was given and he noted that it does not read well. He indicated how, if read strictly, it could lead to someone not being able to do a rezoning ordinance without having to first go through a referendum process. He explained how it could go the other way as well, which is probably the original intent of limiting the number of bars over the entire City, but is still problematic in its current state.

CRC Member Mueller felt this item could be handled by its complete removal and be addressed by ordinance where some flexibility could be allowed. **CRC Chairperson Blakeslee** shared some history on the related decisions and the original inclusion of this item in 1989. He explained some of the challenges at that time and noted that the original intent was to try and incorporate restaurants that could serve alcohol by meeting certain requirements.

There was further discussion on this item and its location in the charter. It was the **consensus** of the CRC to list this item for later discussion.

CRC Member McKinney inquired as to the impact this Section 5 item could possibly have on the hotel that is being built; noting that most of their revenue would not be derived from the sale of food. **Facilitator Smith** expressed that this is a good question because the exclusion is for restaurants selling more than 51 percent; a hotel having a standalone bar is technically an establishment selling intoxicating liquor. **CRC Chairperson Blakeslee** noted that he believes the hotel would be considered as one facility, making it a licensing nature recognized by the State of Florida; which would mean the City would not have to step in and try to regulate.

CRC Member Mueller voiced his concerns on this item being in the charter; noting its being there could potentially affect new businesses coming into the City. **Facilitator Smith** explained that this deals not with the issue of whether one can have a bar, but with where one can be located. There was further discussion on this item.

Secs. 6-10 – **Reserved** – *No noted changes.*

5. **Article II – The City Commission**

Sec. 11 - **Number, selection, term, compensation**

CRC Member Cappleman referred to an excerpt in Section 11 (5) stating that “*the mayor-commissioner and the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.*” He inquired as to how it is determined what is actual and necessary. There was discussion on this item being possibly established by city policy and then who determines the policy on reimbursements came into question. **City Clerk Grimmage** noted that staff would look into this issue and bring an answer back to the CRC. **CRC Member Cappleman** noted that some items such as health insurance and computers were added [*in the budget*] for the City Commission, but was not certain how this was submitted and approved. **City Attorney Langley** noted that the City Commission, as a body, would have to vote on approving certain classification types that would not already be permitted. He stated that an individual commissioner cannot make that decision and he referred to the budgeting process. There was discussion of a need for clarification in this language. **Facilitator Smith** suggested the addition of language such as “*the Mayor-commissioner and the commissioners shall, in accordance with city policy, receive their actual and necessary expenses...*”. There was further discussion on establishing better language on this issue.

CRC Member Mueller regarding Section 11 (1), stated that he would like to see the change in the term of office go to four (4) years versus the current three (3) years. He noted that this fits in the category of a lot of legislative offices and further explained his thoughts on this issue. He is also in favor of a two (2) term limit per office. **Facilitator Smith** added that when imposing term limits there is usually a stipulation requiring one (1) year off.

CRC Chairperson Blakeslee reminded the Committee that these types of discussion items would be placed on a discussion list for further review and then voted upon at a later date in an effort to keep the review moving forward.

Sec. 12 – **Qualifications**

CRC Chairperson Blakeslee shared that this item had been thoroughly covered by the last committee and he explained its purpose. *No noted changes.*

Sec. 13 - **Powers of city commission** - *No noted changes.*

Sec. 14 - **Prohibitions**

Facilitator Smith and **City Attorney Langley** addressing Section 14 (2), indicated that

this is a policy versus procedural issue. They shared that another municipality experienced mayor interference with its administration resulting in that official being removed from office. Also discussed were language changes, but no actual changes were noted.

Sec. 15 - **Forfeiture of office**

There was discussion on the meaning of moral turpitude being crimes of dishonesty. The CRC discussed felonies and misdemeanors that may not fall under the term moral turpitude. There was discussion that more information would be needed on felonies and it was noted that, if so chosen to use the word felony, it would be added to subsection (c) as opposed to replacing any language. City Attorney Langley was asked to get more information on felonies to further review this item.

City Attorney Langley noted that this would only affect someone during their term of office, not someone whose voting rights had been restored, looking to qualify to run for office.

Sec. 16 - **Judge of forfeiture**

CRC Member Cappleman noted that five (5) days is stated, but a week is required to advertise. There was discussion on the intent being that the person accused would have five (5) days with the City not having a time limit for when they schedule the hearing. **Facilitator Smith** explained that the five (5) days could be a short timeframe due to the defining of when something is considered delivered. He expressed the importance of allowing due process. **CRC Member Cappleman** requested that the attorneys review this for possible language modification; providing better clarification. **City Attorney Langley** noted that this could also raise questions regarding the Sunshine laws; noting that independent of each other, it states that the two (2) commissioners must make a charge. **Facilitator Smith** noted that he has not seen a charter go into this much detail on the process of forfeiture; he suggested simplifying the language.

Sec. 17 - **Vacancies in commission**

CRC Chairperson Blakeslee shared that he felt there should be at least nine (9) months when filling a vacancy as opposed to the current six (6) months. He addressed the special election process, its cost, and the little time left for the candidate to serve after that process. He expressed that it would be better to have them appoint someone. There was discussion on the issue of a tie and the methods of drawing lots and flipping a coin; with **Facilitator Smith** commenting that there should be some consistency. He noted that a situation could occur that could potentially create ambiguity. The CRC also discussed different scenarios; it was noted that in some instances they would have to keep voting to achieve an end result.

The CRC also briefly discussed a former way of filling a vacancy which was by governor appointment; noting that it was not an option that anyone wanted.

Sec. 18 - Induction of commissioners into office; meetings

There was discussion on Section 18 (3) regarding the twelve (12) hour notice and special meetings and Section 18 (4) emergency meetings. They discussed the notice being given to the commission and when the public would actually receive it. **Facilitator Smith** voiced that he thinks that this is a valid concern. **City Attorney Langley** noted that the City Attorney's recommend not holding a meeting that quickly if it is not an emergency. It was noted that 24 to 48 hours is good, but 48 to 72 hours for special meetings would be preferred. **Facilitator Smith** shared that many of the legislators in Tallahassee are beginning to call for at least one week's notice for all local government meetings. Discussion ensued on the proper required time for noticing.

CRC Chairperson Blakeslee requested that City Clerk Grimmage provide information from the last Charter Review on the thought that the committee may have had in changing this item to its current state. It was also noted that the review of other cities would be good regarding this item.

Sec. 19 - Legislative procedure

Facilitator Smith noted that the word "fewer" would fit better. **CRC Member Cappleman** mentioned that a one-word change would require a vote by the electorate. **Facilitator Smith** responded that these types of changes could be incorporated into one ballot question for non-substantive word choice and roll everything into that one question.

Sec. 20 - Adoption of ordinances; procedure; effective date

CRC Member Blakeslee inquired of Section 20 (2) and questioned if there would ever a come the time and place when "*noticed once in a newspaper of general circulation*" would no longer be used. **City Attorney Langley** noted that currently the Florida State Statutes on the adoption of ordinances was used in writing this section. He shared that this actually tracks that statute, but right now it does require a notice in the newspaper of general circulation. He also noted other postings such as those placed on the City website. There was discussion on the City following the State Statutes regarding postings. **Facilitator Smith** offered that in order to future proof this language they might use "*shall be advertised in accordance to state law.*" Discussion ensued on not using terms that could become antiquated or binding to the City. Also not using the term "on City's website" due to the potential unavailability of the site. There were no noted suggestions to change the remaining

subsections.

Sec. 21 - **Emergency measures**

CRC Chairperson Blakeslee addressed the issue of two-thirds (2/3) votes and whether there is the meaning of four (4) out of five (5) or three (3) out of five (5). There was discussion on setting the number of votes needed or use of the term majority votes. **City Attorney Langley** noted that this (2/3) comes from the State Statute on adopting emergency ordinances. **Facilitator Smith** inquired as to the two-thirds (2/3) being of the entire City Commission or for those available at the meeting; noting that it is not uncommon in the event of an emergency meeting for people to not be able to attend. Attendance by phone or video conference was discussed. There was discussion of the Attorney General opinions and further review of what constitutes an emergency action. It was the **consensus** of the CRC to review Section 21 for possible flexibility.

Sec. 22 - **Revision of ordinances**

CRC Member Cappleman addressed the language which states “revise, compile and codify the ordinance...”. He inquired if this could be done without a vote, without a notice, without a second hearing, which is all required in order to pass the ordinance. He asked what prevents this from being done. **Facilitator Smith** responded that it is state law, noting it would have to be followed regardless of what is stated in the charter. He agreed that is an awkward provision because of that word “revise”.

There was discussion on what this provision permits, its meaning, and the codification process. **City Attorney Langley** noted that the charter is to constrain the powers of the city and does not see the legality in requirement. **Facilitator Smith** noted that having this there may cause more problems. **City Attorney Langley** stated that if there is a struggle trying to explain it, then it probably should not be there. **City Clerk Grimmage** noted that this was one item that was untouched from the last Charter Review and probably goes back as far as 1975.

It was the **consensus** of the CRC to delete Section 22.

Sec. 23 - **Repeal of ordinances**

City Attorney Langley explained this item with an example and noted how a newly adopted ordinance to repeal an existing ordinance later gets appealed. This section says that the old ordinance does not unwind everything. It does not make that old repealed law come back to life again; that old law remains dead. A new ordinance to go back to the old law would be required. Although it does serve some purpose, he feels that it is unclear and may actually not be needed. There was discussion that

this item may have been one of the old ones. **City Clerk Grimmage** confirmed that this was one of the previous charter items that was untouched. It was the **consensus** of the CRC to delete Section 23.

Sec. 24 – **Investigations**

CRC Member Blakeslee inquired as to the idea behind this section noting the previous provisions that do not allow the City Commission the option to delve into different areas of the City and two cannot speak outside of a meeting about items.

Facilitator Smith gave an example of a current issue he experienced. **City Attorney Langley** referred back to the previous Section 14 (2) regarding the interference of administration and noted that this item is addressed. This provision gives the City Commission rights when investigating as a body to delve into the day to day operations of the City Manager to resolve and issue. **City Attorney Langley** gave an example of this provision and noted that this is a way to give them power to investigate a matter without violating the charter.

Sec. 25 - **Commission districts; adjustment of districts**

CRC Member Mueller addressed Section 25-3(b) and omitting the language “*Commencing on April 30, 2008*”.

CRC Member Cross sought clarification on the adjustments of districts not being determined by the charter, but by Section 25-2 which triggers it. He noted that you cannot go in and arbitrarily change from five (5) commissioners to seven (7); you must go through this charter change process. There was discussion on the process of changing the number of districts, the districting commission, the census as a trigger for districting, and the process of changing of the number of city commissioners.

CRC Member Cappleman inquired about the development of a minority district and CRC Chairperson Blakeslee explained some of the history of that issue. **City Attorney Langley** shared some information on the development of the single-member district and the legal history that challenged citywide commissioners. He also noted another legal issue that was thrown out regarding the drawing of district lines.

CRC Chairperson Blakeslee encouraged everyone to attend the districting meetings should they have an opportunity to experience how it is done.

6. **General Discussion**

City Clerk Grimmage offered a copy of the redline version of the last 2007 charter review for

their reference; the CRC indicated that it could be helpful.

CRC Chairperson Blakeslee noted that the CRC went through two large sections within a rather reasonable manner. He noted that the next subject for review is of the City Manager and there was discussion on the City Manager attending this portion of the review.

CRC Chairperson Blakeslee made the following suggestions for future review meetings: Next meeting review Article III and IV (City Manager and City Departments and Officers), then Article V and VI (Elections, Initiatives and Citizen Referendum), then Article VII and VIII (Charter Review and Fiscal Management). He surmised this taking approximately three more meetings and suggested that they would then get back and begin going through the items on the discussion list. **Facilitator Smith** agreed with CRC Chairperson Blakeslee’s breakdown of the review topics. He suggested the last meeting covering Charter Review and Fiscal Management may be fairly short subject matter and the final discussion items might need to be included in that meeting as well.

7. Confirm meeting schedule – July 15th

CRC Chairperson Blakeslee suggested cancellation of the July 8th meeting rather than rescheduling it to July 15. He then suggested meeting as scheduled on July 22, August 12, and August 26, to go through the rest of the items. They would then do a review for whether they should meet or reschedule September 9th. They would then set aside September 23rd for finalizing their work; possibly running the meeting later than 7:30 p.m., if necessary, to finish up.

CRC Chairperson Blakeslee suggested that the CRC is ready at the August 12th meeting to review Sections V through VIII in order to keep moving forward through the items.

Motion by CRC Member Mueller to cancel the July 15, 2019 Charter Review Committee meeting. Seconded by CRC Member Bartow and carried unanimously 9-0.

City Attorney Langley confirmed that the subject matter of the next meeting would be Article III and IV and requested that City Manager Bollhoefer be invited to attend.

8. Adjournment

The meeting adjourned at 7:10 p.m.

Attest

Approved

Angee Grimmage, City Clerk

Derek Blakeslee, CRC Chairperson

**CITY OF WINTER GARDEN
CHARTER REVIEW ADVISORY COMMITTEE, CITY STAFF, AND CITY
COMMISSION PROPOSED CHANGES SHOWING EDITS**

07-20-2007

(Charter review committee proposed additions are single underlined while charter review committee deletions are ~~single struck~~. City Commission and staff proposed additions are double underlined while city commission and staff deletions are ~~double struck~~)

PREAMBLE

We the people of the City of Winter Garden, Florida, under the constitutions and laws of the United States of America and the State of Florida, in order to provide the benefits of local government responsive to the will and values of our citizens, do hereby adopt this charter to define the powers and structure of our government. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation. We believe in an open, responsive government that abides by the highest ethical standards and operates as a careful steward of the human, fiscal, and natural resources of our city.

ARTICLE I. INCORPORATION; FORM OF GOVERNMENT; POWERS

~~Sec. 1. Reaffirm present municipal form of government.~~

~~The present municipal form of government of the City of Winter Garden, Florida, is hereby reaffirmed.~~

Sec. 6. Sec. 1. Reaffirming the existing boundaries of the municipality.

The inhabitants of the City of Winter Garden, Florida, within the corporate limits as now established, or as hereafter established in the manner provided by law, shall continue to be a municipal corporation in perpetuity, under the name of the "City of Winter Garden, Florida." The corporate limits as now established are as follows: ~~[The corporate limits of the city are not printed herein, but are on file in the city clerk's office.]~~

That said corporate limits may be extended from time to time as provided for in the Florida Statutes, without further amendment of this section, such up-to-date boundaries of the corporate limits shall be maintained in the office of the city clerk and is ~~{are}~~ hereby adopted and incorporated as fully as if set out in length herein.

~~Sec. 2. Effect on existing contracts.~~

~~No obligation, or contract of said municipality shall be affected or impaired by the enactment of this revised Charter, but all debts, contracts and obligations shall be obligations upon and enforceable against the new municipality.~~

~~Sec. 7.~~ Sec. 2. **Form of government.**

The form of government of the City of Winter Garden provided for under this ~~revised~~ ~~c~~Charter shall continue as a "commissioner-manager plan," and the commission shall consist of five (5) citizens, who shall be elected ~~at-large~~ in the manner hereinafter provided. The commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt regulations and appoint a chief administrative officer to be known as the "city manager," and to exercise all other powers hereinafter provided.

~~Sec. 8.~~ Sec. 3. **Powers of city; general.**

The City of Winter Garden hereby created, established and organized, shall have all governmental, corporate, and proprietary full powers and authority 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 of Winter Garden shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and specific limitations contained herein. The specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this section.

~~(1) Taxes and assessments. To raise annually by taxes and assessments in said city such sums of money as the city commission hereinafter provided for shall deem necessary for the purposes of said city and in such manner as shall be hereafter provided for and in accordance with the Constitution and laws of Florida and of the United States; provided, however, that it shall impose no tax on the bonds of the city or other evidence of city indebtedness.~~

~~(2) License taxes. To impose license taxes upon privileges, businesses, occupations and professions carried on and engaged in within the city; and the amount of such taxes shall not be dependent upon the general state revenue law.~~

~~(3) Special and local assessments. To impose special or local assessments for local improvements and to enforce payment thereof.~~

~~(4) Contracting of debts and borrowing money. Subject to the provisions of this Charter and of the Constitution of the State of Florida to contract debts, borrow money and make and issue evidences of indebtedness.~~

~~(5) Issuance of bonds. To issue bonds and revenue certificates to carry out the authorized powers or purposes of the city, provided that, in the creation of bonded indebtedness, the procedure therefor shall be in conformity with the Constitution and laws of Florida.~~

~~(6) Expend moneys, borrow for current expenses. To expend moneys of the City of Winter Garden for all lawful purposes and to borrow money for current city expenses, provided the total amount so borrowed shall not exceed an amount equal to the revenue derived from taxation during the prior fiscal year and provided the interest paid or payable upon such moneys borrowed shall not exceed the maximum rate charged by federal banking institutions within Orange County at such time or times.~~

~~(7) *Invest surpluses.* To invest the surplus funds of the city.~~

~~(8) *Acquisition and disposition of property.* To acquire by purchase, or otherwise, own, take, hold or use, and to lease, sell, grant, convey and mortgage, pledge or otherwise encumber such real and personal or mixed property or interest therein, whether within or without the limits of the city, as may be necessary for any of the purposes of the city, and to improve any such property and to sell or lease said property, or any part thereof, including real estate or any interest therein not necessary or required for public use, to the same extent that a natural person may do, either with or without referendum vote as may be provided by ordinance.~~

~~(9) *Condemnation.* To acquire by condemnation any property necessary for public use, either within or without its corporate limits.~~

~~(10) *Rent, lease.* To rent or lease from any person, firm, or corporation or political subdivision any land, building or personal property within or without the limits of the City of Winter Garden or any space within such building for any municipal purpose.~~

~~(11) *Gifts, bequests and donations.* To receive devises, bequests, gifts and donations of all kinds of property in fee simple or in trust for public, charitable or other purposes, and to do all things and acts necessary to carry out the purpose of such devises, bequests, gifts and donations with power to manage, sell, lease or otherwise handle or dispose of the same in accordance with the terms of the devises, bequests, gifts or donations.~~

~~(12) *Streets and sidewalks, generally.* To lay out, establish, open, grade, curb, pave, repave, macadamize, remacadamize, widen and otherwise improve streets, alleys, avenues, boulevards, lanes, parking facilities, sidewalks, parks, promenades and other public highways, or any part thereof, and to levy special assessments against abutting property and to hold liens therefor as hereinafter provided; and to construct and maintain bridges, viaducts, sewers, and drains; to vacate, alter or change streets and alleys and to grant easements under and over the same; to compel the removal from streets, alleys, sidewalks, parking areas, and other public highways of poles carrying overhead wires, fruit stands, signs, and signboards, showcases, and obstructions of every nature; to regulate the operation and speed of bicycles, automobiles, and other vehicles or conveyances ridden, driven, or propelled through city streets; to regulate the operation and speed of all engines, cars, and trains on railroads within the city; to regulate the service to be rendered and the rates to be charged by buses, motor cars, cabs and other vehicles for carrying of passengers or the transfer of baggage.~~

~~(13) *Public improvements.* To make and maintain, within or without its corporate limits, public improvements of all kinds, including municipal and other public buildings, armories, markets and all buildings and structures necessary and appropriate for the use of the city, and to acquire by condemnation or otherwise all lands, including submerged lands, and all littoral, riparian and other rights and easements necessary to such improvements.~~

~~(14) *Furnish services, utilities.* To furnish within and without its corporate limits all local public services and utilities, and to levy charges for the use of such services and utilities.~~

~~(15) *Public utilities, structures.* To acquire by gift, purchase, condemnation or otherwise, and to construct, maintain and operate, within or without its corporate limits, waterworks and all~~

utilities including but not limited to light plants, power plants, telephone systems, and parks; drives, pest houses, hospitals and all other public buildings, structures, places, works and institutions, and for the carrying out of such purposes shall have power to make all necessary contracts in connection therewith.

~~(16) *Enfranchise utilities.* Subject to the provisions of the Constitution of Florida, and of this revised Charter, to grant franchises for public utilities; provided, however, that the question of granting the franchise shall first be submitted to a vote of the people of the City of Winter Garden.~~

~~(17) *Rates for public utilities.* To establish, impose and enforce water rates and charges for water, gas, electricity and all other public utilities or other service or conveniences operated, rendered or furnished by the city or by any person, persons, firm or corporation by the method and in the manner prescribed by ordinance from time to time. Provided, however, that this subsection shall not apply to public utilities that are regulated by the Florida Railroad and Public Utilities Commission.~~

~~(18) *Off street parking.* To acquire, construct and maintain parking lots and other off street parking facilities, to levy special assessments therefor, and to regulate and charge for their use.~~

~~(19) *Enactment and enforcement of ordinances; penalties.* To make, ordain, establish and enforce all ordinances, rules and regulations not inconsistent with this Charter, the Constitution and laws of Florida and of the United States, which are necessary or expedient for the purpose of carrying into effect the powers conveyed by this revised Charter or any general law, and to impose penalties for breaches of its ordinances by fine or imprisonment in the city jail, with or without hard labor on the streets, alleys, parkways or other public property in the city, and to enforce the same by attachment, summarily against the person and property of the delinquent; provided that the penalty imposed shall in no case exceed imprisonment for sixty (60) days or a fine of five hundred dollars (\$500.00) or both.~~

~~(20) *Codification of ordinances.* To provide for the codification of all ordinances of a general nature of the city into a general code. Such code and revisions thereof may be adopted by ordinance entitled, "An Ordinance to Adopt a City Code for the City of Winter Garden," and it shall not be necessary to comply with the provisions of this revised Charter regarding reading of ordinances. Amendments to this code shall be by duly enacted ordinances, but revisions of the code may be adopted as aforesaid.~~

~~(21) *Nuisances and other matters detrimental to health, morals, safety, etc.* To define, prevent or abate nuisances; to prevent the running at large of cattle, horses, dogs, sheep, goats and other animals in the city limits; to regulate or prevent slaughterhouses or other noisome or offensive businesses within said city; to provide for inspection and regulation of the sanitary condition of all dairies, butcherpens and slaughterhouses within and without the said city limits and to provide penalties for the violations of such regulations; to regulate or prohibit the keeping of animals, poultry or other fowl therein or the exercise of any dangerous or unwholesome business, trade or employment therein; to regulate the transportation of all articles through the streets; to compel the abatement of smoke and dust and prevent unnecessary noise therein; to regulate the location of stables and the manner in which they shall be kept and constructed; and generally to~~

define, prohibit, suppress, abate and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the city.

~~(22) *Police power; municipal courts; police department, etc.* To exercise full police powers and to create and establish [a municipal court and to establish] and maintain a department or division of police and to erect necessary buildings and purchase all implements and apparatus therefor. The City of Winter Garden shall have the right of "hot pursuit," as presently defined or referred to by the statutes of the State of Florida, beyond its city limits in the enforcement of its police powers. The commission may enter into reciprocal agreements with any other city or town, state or county government for furnishing police and fire protection and other municipal services, and enact such ordinances, or resolutions, as shall be necessary to carry out the same.~~

~~(23) *Traffic; sales upon streets, etc.; vacation of streets.* To license, control, tax and regulate traffic and sales upon the streets, sidewalks and public places within the city and the use of space in such places, and to authorize the city commission or the chief of police to make and promulgate regulations for traffic on the streets during such hours as may be necessary and convenient and to provide for parking spaces on the street, and to regulate, vacate or discontinue the use of the same.~~

~~(24) *Fire protection, etc.; building, plumbing and wiring regulations, etc.* To organize a fire department and provide all implements and apparatus therefor; to establish and designate from time to time fire limits and to regulate and prohibit the erection or repair of all buildings of whatever character within the said limits except those erected in accordance with the building regulations; to regulate and prevent the importation of gun powder, dry pitch, resin, kerosene[,] oil, benzine, naphtha, gasoline, turpentine, hemp, cotton, nitroglycerine or any product thereof, or other combustible or explosive materials within the city; to regulate and prevent the building of bonfire; to regulate and prevent the use of firecrackers, torpedoes, candles, skyrockets or other fireworks; to regulate and prevent obstructions to the entrances and the exits from theatres, lecture rooms, halls, churches, or other places for public gatherings, and to prevent the placing of seats, chairs, benches or other objects in hallways, aisles or open places therein; to regulate the construction and the materials used in buildings, chimneys, stacks and other structures; to prevent the erection and maintenance of insecure or unsafe buildings, walls, chimneys, stacks or other structures; to regulate the wiring or lighting, power, heating and other utility systems, and the piping of buildings for water or gas; to require and compel the owners or lessees of buildings to place upon them or in them fire escapes and appliances for the extinguishing and prevention of fires; to prevent the construction and cause the removal of dangerous chimneys, fireplaces, stoves, stovepipes, ovens, boilers, apparatus or machinery used in any building in the city; to regulate gasoline cut-offs at curblines and to regulate the operation and control of its storage; to prevent the depositing of ashes, accumulation of shavings, rubbish, garbage or any combustible material; and to provide by ordinance for the condemnation and removal of unsafe, unsanitary or dangerous buildings or structures, or parts thereof.~~

~~(25) *City planning and zoning.* To provide for and authorize city planning and zoning and to regulate and control the agencies therefor. The city shall have the right to regulate and restrict the location, number of stories, size, cubic contents, construction and area of buildings or other structures, including but not limited to billboards and advertising agencies, the percentage and portions of lots or land that may be occupied or built on, the size of yards, courts or other open spaces, the density of population and the use of buildings, structures and land for trade,~~

~~industries, residences, apartment houses and any other purpose of any of said purposes that promote the safety, health, profit, morals, convenience, peace, prosperity or general welfare of the municipality or its inhabitants. To divide the said municipality into zones of such number, shapes and areas as may be deemed to be best suited to effectuate the purposes of this section; and within said zones to regulate and restrict the erection, construction, reconstruction, alteration, repair, destruction or removal of the buildings, lands and structures including billboards.~~

~~(26) *Gambling.* To punish as a crime gambling or other disorderly conduct.~~

~~(27) *Cruelty to animals.* To prohibit cruelty to animals.~~

~~(28) *Sale, etc., of intoxicants.* To regulate the hours of sale of intoxicating liquors, wines and beers within the limits of the city. To regulate or prohibit the sale, transportation or possession of intoxicating liquors, wines and beers within the limits of the city. All regulations affecting the location of any establishment selling intoxicating liquor, wine or beer for consumption on the premises shall be subject to a referendum of the voters; and except for restaurants that derive more than fifty one (51) percent of their annual revenue from the sales of food and nonalcoholic beverages served for consumption on the premises, any establishment selling intoxicating liquors, wine or beer, for consumption on the premises, shall not be located less than 1200 feet from a school or an established church within the corporate limits of the city.~~

~~(29) *Markets, etc.* To establish, lease, maintain, operate and regulate market places and abattoirs, and to build, own and maintain buildings therein and to rent and lease the same.~~

~~(30) *Keeping undesirables, etc., out of city.* To prevent persons having no visible means of support, paupers and persons who may be dangerous to the peace or safety of the city from coming to said city from without the same, and for this purpose to require any railroad company, the owner of any bus or taxi, the master of any ship or vessel, or the owners of any conveyance bringing such persons to the city to take such person back to the place whence he was brought or enter into bond with satisfactory security that such person shall not become a charge upon said city within one (1) year from date of his arrival; and also to expel therefrom any such person.~~

~~(31) *Numbering of houses and lots.* To regulate the numbering of houses and lots and to compel the owners of houses or other buildings to have the numbers of such houses and buildings shown conspicuously thereon.~~

~~(32) *Underground wiring.* May require the placing of all electrical, telegraph, telephone and cable television wires underground prescribing rules and regulations for the construction and use thereof.~~

~~(33) *Aircraft and pilots.* To license and regulate air vessels operated over the city and stipulate the heights at which and the manner in which same may be operated above the area included in the city limits, and to license and register the pilots thereof.~~

~~(34) *Airport.* To acquire by purchase, lease, condemnation, or otherwise, lands, within or without the city limits for landing field or fields, or airport or airports for aircraft and to construct and equip thereon or on other property of the city, either within or without the city limits, such buildings and other improvements, or either or any such buildings or improvements as may be~~

~~deemed necessary for that purpose; to operate and maintain such airports and to provide rules and regulations governing their use and the use of other property for means of transportation within or over the same, and to enter into contracts with or otherwise cooperate with the federal government or other public or private agencies in matters relating to such airports and otherwise to exercise such powers as may be required or convenient for such establishment, operations and maintenance; taxes may be levied for any such purpose and unless such airport shall have been acquired by lease said city may issue bonds in accordance with the provisions of this Charter relating to issuance of bonds to pay the cost of such airports and buildings and improvements and equipment.~~

~~(35) *Promotion of general welfare, etc.* To do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city or its inhabitants.~~

~~(36) *Safeguarding general health; regulation of restaurants; hotels, etc.; sale of foodstuffs.* To provide for the preservation of the general health of the inhabitants of the city; to establish quarantine laws and regulations and make and enforce health regulations not inconsistent with the rules of the state board of health; to make regulations to prevent the introduction or spreading of contagious, malignant infections or other diseases in the city; to regulate and control and prevent the entry into the city of persons, baggage, merchandise or other property infected with contagious diseases; to provide for the control and regulation of restaurants, hotels, butchershops, lodgings, and tenement and apartment houses, and to provide and require that they be kept in a sanitary condition; to regulate the selling of meat, farm products, fish, vegetables and fruits and all other foodstuffs and to require the same to be inspected and condemned if found unwholesome, and to provide penalties for the violation of such regulations.~~

~~(37) *Health aid.* To create, establish, support, maintain and regulate bureau of legal, dental, medical and health aid.~~

~~(38) *Carcasses and offensive matter.* To prevent the bringing into and depositing within the limits of the city of any carcasses or any offensive or unwholesome matter, and to compel the removal or destruction by any person who shall have placed upon or near his premises any offensive matter and to provide penalty for violations thereof.~~

~~(39) *Collection and disposal of sewage, offal, garbage, etc.* To collect and dispose of sewage, offal, trash, rubbish, ashes, garbage, vegetable refuse, animal refuse, and other refuse, and to collect or construct and to operate incinerators and other plants for the disposal and reduction of such matters, or to provide for such collection and disposal by contracts with other governmental units or private contractors in its discretion.~~

~~(40) *Sewerage, drainage, etc.* To provide, erect, construct or acquire and maintain a sewerage system and to compel owners of improved property to connect therewith; to regulate the use of all bridges, viaducts, drains, sewers and cesspools within the city; to prohibit the use and maintenance of cesspools in all or any part of the city, and to compel the making of sewer connections and assess the cost thereof against the property so connected with the sewer; to compel the owner of low grounds where water collects and becomes stagnant, to fill or drain such low places and upon his default to authorize such drainage or filling at the expense of such~~

owner, and to make the expenses thereof a lien upon the property filled or drained and to make an assessment for the same to be on record.

~~(41) *Public libraries.* To own, organize, support and administer one or more public libraries.~~

~~(42) *Hospitals; regulations respecting the poor, indigent, etc.* To establish and maintain hospitals within or without the corporate limits of the city; to establish rules and regulations respecting the poor, indigent, infirm and insane, not inconsistent with the state laws, and to provide for their support, and to fix conditions upon which such persons coming into the city shall be allowed to remain.~~

~~(43) *Acquire and regulate cemetery.* To acquire by purchase, gift, devise, condemnation or otherwise, lands, either within or without the city, to be used, kept and improved as a place for the interment of the dead, and to make and enforce all necessary rules and regulations for the protection and use thereof, and generally to regulate the burial and disposition of the dead.~~

~~(44) *Parks, playgrounds and recreational facilities.* To establish, support, maintain, regulate and develop a system of public recreation, including parks, playgrounds and other necessary facilities and activities incident thereto and to provide for their conduct; and to dedicate and set aside for such uses any lands or buildings, or both lands and buildings, now or hereafter owned or leased by the city, with power to charge and collect reasonable fees and charges for access to or enjoyment of any such facilities or activities.~~

~~(45) *Golf courses and municipal stadium.* To acquire, lay out, construct, equip, maintain, control and regulate a municipal golf course or courses, and a municipal stadium, either within or without the corporate limits of the city, to fix, charge and collect reasonable rates and fees for the use thereof; to levy and collect taxes for construction, equipment, operation and maintenance thereof, and to issue bonds for the acquisition of such golf course, golf courses or stadium. When this revised Charter or the general laws of Florida require, that such bond issue be approved by referendum election, said referendum shall be held in accordance with the general laws of Florida.~~

~~(46) *Weights and measures.* To provide for the control and inspection of weights and measures used in the city and to compel the use by dealers of proper weights and measures duly tested and sealed.~~

~~(47) *Powers not exclusive.* The enumeration of particular powers by this revised Charter shall not be deemed or held to be exclusive, but in addition to the powers hereby expressly granted, and those implied therefrom, or appropriate to the exercise thereof, the said city shall have, and may exercise, all other powers which, under the Constitution and laws of Florida, it would be competent and appropriate for this paragraph to specifically enumerate, including but not limited to any and all rights and powers specifically enumerated in the Florida Statutes as pertaining to municipalities and specifically granting said city the right to incorporate and exercise powers hereinafter established in said Florida Statutes.~~

Sec. 4. Present commission continued in office.

~~The term of office of the mayor-commissioner and the city commissioners, heretofore elected and now qualified and acting as such, shall not be affected by this act [Charter] and such officers shall be and remain under this revised Charter until their successors are elected, or are appointed as hereinafter provided, and qualified.~~

~~Sec. 3, Sec. 4. Present ordinances continued in force.~~

~~All ordinances and parts of ordinances now in force in said municipality, which are not in conflict with the provisions of this revised Charter, or with the Constitution and laws of the State of Florida, shall be and remain in full force and effect until repealed by law or ordinance.~~

~~Sec. 5. Present office holders to hold until successors qualify.~~

~~All officers heretofore elected or appointed and holding office under the said municipality shall continue to hold their respective offices and to discharge the duties thereof until their successors are elected and confirmed under the provisions of this revised Charter.~~

~~Sec. 5. Sale of Alcoholic Beverages.~~

~~All regulations affecting the location of any establishment selling intoxicating liquor, wine, or beer for consumption on the premises shall be subject to a referendum of the voters; and except for restaurants that derive more than fifty-one (51) percent of their annual revenue from the sales of food and nonalcoholic beverages served for consumption on the premises, any establishment selling intoxicating liquors, wine, or beer, for consumption on the premises, shall not be located less than 1200 feet from a school or an established church within the corporate limits of the city.~~

~~[Secs. 9, 10. Reserved.]~~

~~[Secs. 6, 7, 8, 9, 10. Reserved.]~~

ARTICLE II. THE CITY COMMISSION

Sec. 11. Number, selection, term, compensation.

- (1) ~~There shall be Aa city commission is hereby created, to consisting of a mayor-commissioner who shall represent the entire city and be elected at large by the voters of the city, and four (4) commissioners each of whom shall represent a single member district and be elected by the voters in the district they represent. The mayor-commissioner and commissioners who shall be qualified as hereinafter prescribed, and whose their term of office shall begin on the first regular meeting of the city commission after their election. The term of office of the mayor-commissioner and the commissioners shall be two (2)three (3) years.~~
- (2) The present members of the city commission shall hold their seats for the term of office for which they were respectively elected, or until their successors have been elected and take office.

- (3) ~~The commission shall elect from among its members a mayor pro tem, who shall serve for a period of one year. The mayor-commissioner shall preside as chairperson of meetings of the commission, represent the city in intergovernmental relationships, present an annual state of the city message, and perform other duties as specified by the commission.~~ The mayor-commissioner, shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. ~~The mayor pro tem shall act as mayor during the absence or disability of the mayor. Each~~ The mayor-commissioner as a city commission member shall have a voice and a vote in the proceedings of the commission; but no veto power.
- (4) At the first regular commission meeting after an election, including any runoffs and swearing in of commissioner(s), the commission shall elect from among its members a mayor pro tem, who shall serve until a successor is elected. The mayor pro tem shall act as mayor during the absence or disability of the mayor.
- (54) The commission may determine the annual salary of the mayor-commissioner and the commissioners by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the mayor-commissioner and/or commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. The mayor-commissioner and the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 12. Qualifications.

- (1) Candidates. Candidates for the city commission shall have been residents of the city and of the district in which they run for two one (21) years immediately prior to registering the end of the qualifying period for the office and, [and] shall be registered voters in their district for said period, and shall maintain residency and voter registration in such district. ~~have the qualifications of electors in the city for said period. Members of the city commission shall not hold any other public office, except that of notary public, an office in the National Guard, or an office in the organized reserve of the armed forces of the United States. Any member of Members of the city commission must ceasing to possess maintain the foregoing qualifications during their term of office, or who shall be convicted of a crime involving moral turpitude, shall forfeit his office. Absence from four (4) consecutive regular meetings of the city commission shall operate to vacate the seat of a member, unless such absence is excused by the city commission by resolution setting forth the fact of such excuse duly entered upon the journal. Notwithstanding the foregoing, in the event a qualified candidate for commissioner fails to meet the residency and voter registration requirements for holding office solely as the result of a redistricting that occurs after the qualifying period for the election of such office, such qualified candidate for commissioner may continue to run for the office which he/she qualified and if elected, serve without forfeiture under section 15 for the remainder of his/her term provided the qualified candidate maintains his/her residency and voter registration existing at the time of redistricting while running for office and, if elected, while serving as commissioner.~~

Formatted: Not Double strikethrough

Formatted: Not Double strikethrough

(2) *Members.* Members of the city commission must maintain the foregoing qualifications in subsection (1) during their term of office. In the event a commissioner fails to meet the residency and voter registration requirements for holding office solely as the result of a redistricting or charter revision that occurs during the term of office, such commissioner shall not be deemed to have forfeited such office and may continue to serve in office for the remainder of the commissioner's term provided the commissioner maintains his/her residency and voter registration existing at the time of redistricting.

Formatted: Not Double strikethrough

Formatted: Not Double strikethrough

Sec. 13. Powers of city commission.

~~Except as otherwise provided in this Charter, a~~All powers of the city, ~~and the determination of all matters of policy shall be vested in the city commission, except as otherwise provided by law or this charter and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. Without limitation of the foregoing, the city commission shall have power to:~~

- ~~(1) Be the judge of the election and qualification of its own members;~~
- ~~(2) Authorize the issuance of bonds; revenue certificates, and other evidence of indebtedness;~~
- ~~(3) Adopt and modify the official map of the city;~~
- ~~(4) Provide for an independent audit;~~
- ~~(5) Pass ordinances and laws for the preservation of the public peace and order, and impose penalties for the violation thereof; provided, that the maximum penalty to be imposed shall be a fine of not more than five hundred dollars (\$500.00) or imprisonment for a period of time not longer than sixty (60) days;~~
- ~~(6) Deal with any property of the city, both real or personal, or mixed in any manner the commission may see fit to do in accordance with the general powers of the city;~~
- ~~(7) Provide rules and regulations for all purchases and sales made for and in behalf of the city;~~
- ~~(8) Appoint, remove and fix the compensation of the city manager, city attorney, city prosecutor, city auditor, city clerk, city tax assessor, and a certified public accountant to perform the annual audit;~~
- ~~(9) Appoint advisory boards to serve without compensation;~~
- ~~(10) Establish by ordinance, the conditions upon which subdivisions and other areas may be annexed by the City of Winter Garden;~~
- ~~(11) Exercise any right or authority given or permitted by the Constitution and the laws of the State of Florida to city commissions consistent with or in addition to the provisions of this revised Charter;~~

~~(12) By order of the city commission those officers listed in paragraph (8) above who are indicted for a felony will be suspended from office, without pay, until acquitted and the office filled by appointment for the period of suspension. By order of the city manager any other municipal officer or employee indicted for a felony will be suspended from office, without pay, until acquitted and the office filled as hereinbefore provided for the period of suspension.~~

Sec. 14. ~~Limitations on powers of city commission~~ Prohibitions.

(1) Appointments and Removals. Neither the city commission nor any of its members shall control, demand, direct or request the appointment or removal of any city administrative officer or employee whom person to, ~~or his removal from, office by~~ the city manager, or ~~by any of the city manager's~~ his subordinates is empowered to appoint or hire, ~~or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city.~~

(2) Interference with Administration. Except for the purpose of an ~~inquiry and investigation under section 2414(2)~~ of pursuant to this ~~revised~~ Charter, the city commission and its members shall deal with the city administrative ~~service officers and employees~~ solely through the city manager, and neither the city commission nor any members thereof shall give orders to any subordinates of the city manager, either publicly or privately. ~~Any violation of this section upon the part of a member of the city commission shall constitute grounds for his recall.~~

Formatted: Double strikethrough
Formatted: Double strikethrough

(2) ~~The city commission, or any committee thereof, or any advisory board appointed by the city commission for such purpose, shall have power at any time to cause the affairs of the city, any city department or the conduct of any officer or employee under their [its] jurisdiction to be investigated; and for such purpose shall have power to issue subpoenas and compel the attendance of witnesses and the production of books, papers and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body, or by the officer making the investigation, and shall be served by an officer authorized to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officers having authority under the laws of the state to administer oaths. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment not to exceed sixty (60) days or both.~~

(3) Holding other Office. Except where authorized by law, members of the city commission shall not hold any other public office. No commission member shall hold any employment with the city during the commission member's term of office. No former commission member shall hold any compensated appointed office or employment with the city until one (1) year after the end of such member's last term of office. Nothing in this section shall be construed to prohibit the commission from selecting any current or former commission member to represent the city on the governing board of any regional or other intergovernmental agency, or from selecting any current commissioner to serve on a municipal board as an ex officio member.

Sec. 15. Forfeiture of Office.

A city commission member shall forfeit his/her office if during the term of office such commissioner:

- (a) Fails to maintain residency and voter registration requirements of section 12 of this charter;
- (b) Violates any express prohibition of this charter;
- (c) Is convicted of a crime involving moral turpitude; or
- (d) Fails to physically attend three (3) regular, consecutive commission meetings without being excused by the city commission.

Sec. 165. ~~Judge of Forfeiture Qualifications~~ Creation of new departments.

~~The city commission by ordinance may create, change, and abolish offices, departments or agencies, other than the offices, departments, and agencies established by this revised Charter. The city commission by ordinance may assign additional functions or duties to offices, departments or agencies established by this revised Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this revised Charter to a particular office, department or agency.~~

~~The city commission shall be the judge of the qualification of its members, and of the grounds for forfeiture of office for its members. In order to exercise these powers, the commission shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A commission member charged by two or more commissioners with conduct constituting grounds for forfeiture of office shall, upon request within five (5) business days of written notification of the charge, be entitled to a public hearing. Notice of such public hearing shall be published in a newspaper of general circulation in the city at least one week in advance of the hearing. At least three (3) members of the commission must approve the forfeiture of office of any commission member.~~

Sec. 176. Vacancies in commission.

~~If any vacancy occurs in the city commission, the city commission shall elect within fifteen (15) days by the affirmative votes of not less than three (3) members, an eligible person to fill the vacancy until the next general or special election, at which time the office shall be filled for the unexpired term; provided, that if such vacancy is not filled within fifteen (15) days after it shall have occurred, appointment to fill the existing vacancy shall be made by the governor.~~

(1) The office of mayor-commissioner or commissioner shall become vacant upon the death, resignation, forfeiture or removal from office in any manner prescribed by law or this charter.

(2) Unless otherwise prescribed by general law, a vacancy on the commission shall be filled in the following manner:

(a) If there are six (6) months or less remaining in the unexpired term of the vacant office, within thirty (30) days of the occurrence of the vacancy, the commission by majority vote of its remaining members shall appoint a qualified person to fill the vacant office to serve the remainder of the term. Within fifteen (15) days of the occurrence of the vacancy, those persons interested in qualifying for appointment to the vacant office shall submit to the city clerk their name and other such information showing that they meet the qualifications for holding office pursuant to Section 12 of this charter. After the fifteen (15) day qualifying period, but before the expiration of thirty (30) days after the occurrence of the vacancy, the commission shall hold a special meeting for the purpose of filling the vacancy and at such meeting allow public comment on the matter. If the commission does not appoint a qualified person by the expiration of thirty (30) days after the occurrence of the vacancy, the vacant office shall be filled by drawing lots among the qualified persons receiving at least two (2) votes from the remaining commission members.

(b) If there are more than six (6) months remaining in the unexpired term of the vacant office, the commission shall schedule a special election to fill the vacancy and such election shall be held not sooner than forty-five (45) days and not later than sixty (60) days following the occurrence of the vacancy.

Formatted: Indent: Left: 0.5", First line: 0"

Sec. 187. Induction of commissioners into office; meetings.

- (1) All meetings of the city commission and of the committees thereof shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep minutes of its proceedings.
- (2) The first meeting of newly elected mayor-commissioner and/or commissioners for induction into office, shall be held at the first regular meeting following their election, after which the commission shall meet regularly at such times as may be prescribed by its rules, but not less frequently than ~~twice~~ once each month.
- (3) The mayor-commissioner or any ~~three-two (32)~~ three (3) members of the commission, may call special meetings of the city commission through the city clerk's office, upon no less than at least sixtwelve (126) hours' written notice to each ~~commissioner member~~ commissioner delivered in a ~~reasonable manner, served personally, or left at his usual place of residence.~~
- (4) The mayor-commissioner or any two (2) members of the commission may convene an emergency commission meeting upon reasonable notice of such meeting given to each commission member. The first order of business at an emergency commission meeting shall be the determination, by affirmative vote of at least three (3) members of the commission that an emergency situation involving health, safety, or public welfare warranting commission action exists. Only matters relating to the emergency may be considered at the emergency meeting and any action taken at such meeting must be approved by at least three (3) members of the commission, except for emergency ordinances which shall be adopted in accordance with this charter~~Section 210.~~

Sec. 198. Legislative procedure.

A majority of all members elected to the city commission shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalty as may be prescribed by ordinance. The affirmative [vote] of three (3) members shall be necessary to adopt any ordinance or resolution, ~~and the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal.~~

Sec. 2019. Adoption of ordinances; procedure; effective date.

(1) All action by the city commission of a legislative character shall be by ordinance. Every proposed ordinance shall be introduced in written or printed form, and shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances shall be, "Be it Enacted by the City of Winter Garden."

~~(2) Each ordinance shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title.~~

~~(3)~~ A proposed ordinance may be read by title, or in full, on at least two (2) separate days and shall, at least ~~seven (7)~~ ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the City of Winter Garden and the notice shall state the date, time and place of the meetings, the title or titles of proposed ordinances, and the place or places within the municipality where such proposed ordinances may be inspected by the public and comply with applicable statutory notice requirements. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

~~(4)~~ After such hearing, the commission may finally pass such ordinance with or without amendment, ~~except that if it shall make an amendment which constitutes a change of substance, it shall not finally pass the ordinance until it shall have caused the amended sections to be published at least once, together with a notice of the time and place when and where such amended ordinance shall be further considered, which publication shall be at least three (3) days prior to the time and place to which such meeting shall be adjourned, the amended ordinance shall be read in full and a public hearing thereon shall be held and after such hearing the governing body may finally pass such amended ordinance, or again amend it subject to the same conditions.~~ The second passage of any ordinance pursuant to this revised Charter shall be final and no further passage shall be required. All adopted ordinances shall become effective ten (10) days after adoption unless otherwise specified therein.

~~(5) After final passage every ordinance shall again be published or posted three (3) places in the city, one of which shall be city hall.~~

~~(6)~~ If a proposed ordinance is defeated either on the first or second reading, the same cannot be again reconsidered for a period of ninety (90) days.

Sec. 210. Emergency measures.

The city commission by affirmative unanimous two-thirds vote, of the total commission may enact ordinances dealing with emergencies at the meeting at which they are introduced. Any new and unexpected condition or occurrence of a nonrecurring nature that constitutes an immediate and serious menace to the public welfare of the city, shall be deemed an emergency. When no expenditure of city funds is entailed, emergency ordinances may be temporarily effective for a period of not more than fifteen (15) days from the date of their passage; but such ordinances shall be subject to all other provisions of this ~~revised~~ ~~Charter~~ governing the enactment of ordinances, and if not finally adopted in the manner herein provided shall expire at the end of the time for which they are temporarily effective. An emergency ordinance authorizing the expending of funds by the city for other than a regular or recurring requirement, may be effective upon any date fixed in the ordinance by the city commission, ~~provided that the ordinance shall not authorize the expenditure in any manner of any greater sum than the unexpended balances in the current contingent funds~~. Every emergency ordinance shall set forth specifically the conditions or occurrences that create the emergency, and shall be printed in full in the first issue of any newspaper thereafter published and of general circulation in the City of Winter Garden, in addition to the other publications required herein, and shall be captioned as an emergency ordinance. ~~Failure on the part of the members of the city commission to comply with the provisions of this section when enacting emergency ordinances shall be ground for recall.~~

Sec. ~~221~~. Revision of ordinances.

The city commission may from time to time revise, compile, and codify the ordinances of the city and upon adoption of such revision and compilation, the same shall be in full force and effect without further publication, as provided in the Florida Statutes.

Sec. ~~232~~. Repeal of ordinances.

The repeal of an ordinance shall not repeal the repealing clause of such ordinances, or revive any ordinance which has been repealed thereby.

~~Sec. 23. Independent audit required.~~

~~Prior to the end of each fiscal year, the city commission shall designate a certified public accountant who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit his report to the city commission, city manager and such other persons as the city commission may designate. Such accountant shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. He shall not maintain any accounts or records of the city business, but, within specifications approved by the city commission, shall post-audit the books and documents kept by any office, department or agency of the city government.~~

~~{Secs. 24, 25. Reserved}~~

Sec. 24. 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.

Sec. 25. Commission Districts; adjustment of districts.

(1) There shall be four (4) city commission districts. Each district shall be formed of compact, contiguous territory, and its boundary lines shall follow the center lines of streets whenever possible. The aggregate length of all district boundaries shall be as short as possible. The districts shall be approximately equal in population based upon the principal of equal and effective representation as required by the federal and state constitutions. ~~Any deviation in the population of a district when formed may not exceed five (5) percent of the average population for all commission districts.~~

(2) A five (5) member districting commission shall be created to study and propose the readjustment of district boundaries when required herein. The five (5) member districting commission shall be appointed in the following manner. The mayor-commissioner shall appoint one (1) elector who resides in the city and each of the four (4) commissioners shall appoint one (1) elector who resides in their respective district. Residency of the districting commission members is to be determined from the most current voter registration rolls ~~of the last general election.~~ Each appointment to the districting commission shall be confirmed by a majority vote of the city commission. Electors chosen shall not be employed by the city.

(3) A districting commission shall be created upon the following circumstances:

~~(a) On or before the first day of the month~~ Within forty-five (45) days following official certification of the decennial census of the state; or

~~(b) Commencing on April 30, 2008, if the population of any district in the city becomes fifty (50) percent greater than the population of the smallest district prior to the decennial census of the state, unless such occurs within one (1) year of the decennial census. The city shall annually review the estimated population of each district.~~

(4) Within one hundred and twenty (120) days of being created, the districting commission shall file with the official designated by the city commission, a report containing a recommended plan for adjustment of the commission district boundaries. The report shall include a map and description of the proposed districts and shall be drafted in the form of a proposed ordinance and upon filing shall be treated as an ordinance introduced by a commissioner.

(5) It shall be the responsibility of the city manager to provide staff assistance and technical data to the districting commission.

(6) The procedure for the city commission's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to this charter and general law, it must include both the map and a description of the recommended districts.

(7) The commission shall adopt a redistricting ordinance at least ninety (90) days before the next regular city election, however if the commission fails to do so, the report of the districting commission shall go into effect at that time and have the effect of an ordinance.

ARTICLE III. CITY MANAGER

Sec. 26. Appointment of city manager; ~~written contract compensation.~~

The city commission shall appoint a city manager, ~~and from year to year establish the compensation of an officer of the city,~~ who shall have the powers and perform the duties provided in this Charter. No city commissioner shall ~~receive such appointment be appointed city manager~~ during the term for which ~~the commissioner was~~ shall have been elected, nor within one (1) year after the expiration of ~~his~~ the commissioner's term. The city manager will be hired by the city under a written employment contract, the terms of which must be approved by an affirmative vote of at least three (3) commissioners before said contract can be effective. In no event shall the city manager be hired pursuant to a written employment contract for a term of employment in excess of four (4) years. At the expiration of such contract, the city commission must decide by an affirmative vote of at least three (3) commissioners either to retain the city manager pursuant to a written employment contract or terminate the city manager.

Sec. 27. Removal of city manager

Prior to the end of the city manager's contract, ~~the~~ city commission may remove the city manager by ~~an affirmative super-majority~~ an affirmative vote of at least ~~four (4)~~ three (3) of its members. At least thirty (30) days before such removal shall become effective, the commission shall by ~~an affirmative super-majority~~ an affirmative vote of at least ~~four (4)~~ three (3) of its members adopt a preliminary resolution stating the reasons for ~~his~~ the city manager's removal. The manager may reply in writing and may request a public hearing, which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the city commission by ~~super-majority~~ an affirmative vote of at least ~~four (4)~~ three (3) of its members may adopt a final resolution of removal.

Formatted: Double strikethrough

By the preliminary resolution the city commission may suspend the city manager from duty, but shall in any case ~~cause to be paid him, upon final determination, any unpaid balance of his salary~~ continue to pay full salary to the city manager until the effective date of a final resolution of removal. Upon the expiration of the city manager's contract, the above process is not applicable and the city commission may remove the city manager by an affirmative vote of at least three (3) commissioners.

Sec. 28. Qualifications.

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

Sec. 29. Absence, disability or suspension

To perform ~~his~~ the city manager's duties during ~~his~~ the temporary absence or disability of the city manager, not to exceed thirty (30) days, the city manager ~~may~~ shall designate, by letter filed with the city clerk, a qualified administrative officer of the city. In the event of the failure of the city manager to make such designation, the city commission may by resolution appoint an officer of the city to perform the duties of the city manager until ~~he~~ the city manager shall return, or ~~his~~ the city manager's disability shall cease.

Sec. 30. Powers and duties

The city manager shall be the chief executive officer ~~and head of the administrative branch of the city government except as herein provided of the city and~~. He shall be responsible to the city commission for the ~~proper administration~~ management of all city affairs of the city and ~~to that end, placed in the city manager's charge by or under this charter.~~ Subject to Florida Statutes as from time to time amended, ~~he shall have power and shall be required to~~ the city manager shall:

- (1) ~~Appoint, and, when necessary for the good of the city, suspend and/or remove all officers and employees of the city, any all city employees and/or appointive administrative officers, except as otherwise provided for, by, or under this Charter, and except as otherwise provided by law, this charter, or city ordinances, personnel rules adopted pursuant to this charter.~~ as he The city manager may authorize the head of a department or office ~~any administrative officer subject to the city manager's direction and supervision~~ to appoint and remove exercise these powers with respect to city employees and officers that are ~~within, or subordinates in such of that administrative officer's department, or office, or agency, subject to the city manager's direction and supervision;~~
- (2) ~~Fix the salary of officers and employees whose salary is not set by the city commission under this Charter.~~ Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or law;
- (3) ~~Endorse on all contracts, bonds and other instruments in writing in which the municipality is interested his approval of the substance thereof.~~ Attend all city commission meetings. The city manager shall have the right to take part in discussion at City Commission meetings but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city commission, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed.
- (45) Prepare and submit the annual budget annually and submit its capital program to the city commission, and implement the final budget as approved by the city commission to achieve the goals of the city for approval;
- (56) Prepare and submit to the city commission and make available to the public, as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year;

- (7) Make such other reports as the city commission may require concerning operations;
- (68) Keep the city commission fully advised in writing of as to the financial condition and future needs of the city; and make a report thereon on the second meeting of each month, and make such recommendations as may seem to him desirable;
- (79) Make Recommendations to the city commission, the salary and wage scale proposed for the ensuing year, noting thereon any proposed changes recommended concerning the affairs of the city and facilitate the work of the city commission in developing policy;
- (10) Provide staff support services for the mayor-commissioner and commission members;
- (11) Assist the city commission to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among commission, staff, and citizens in developing public policy and building a sense of community; and
- (14) Have the authority to execute contracts and other documents on behalf of the city to carry out the city's business and to effectuate the directives of the city commission; and
- (§154) Perform such other duties as may be prescribed by or specified in this revised Charter or may be required of him by the city commission not inconsistent therewith.

[Sec. 31. Reserved.]

ARTICLE IV. CITY DEPARTMENTS AND OFFICERS

Sec. 32. Departmental organization.

- (1) All department heads shall be appointed and by the city manager with the approval of the city commission, but such department heads may be removed by the city manager, unless otherwise as hereinbefore provided herein.
- (2) Each department as herein established, except the city auditor and the city attorney, shall be administered by an officer designated by, and subject under this Charter to the direction and supervision of the city manager. With the consent of the commission, the city manager may serve as the head of one or more departments; provided, however, the city manager shall not serve as the head of any department set out in Article IV of this revised Charter.
- (3) The work of each department shall be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the city manager. Pending the passage of an ordinance or ordinances distributing the work of the departments under the supervision and control of the city manager among specific divisions thereof, the city manager shall establish temporary divisions.

(4) ~~Officers and Employees~~ of the city may hold more than one office position in the City of Winter Garden.

Sec. 33. City clerk.

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

~~for an indeterminate term and fix his compensation. His powers and duties shall be:~~

(1) ~~Give notice of city commission meetings to its members and the public. To attend all meetings of the commission, and keep permanent minutes of its proceedings, which shall be approved and engrossed in a well-bound book and signed by the mayor and attested by the clerk at the next regular meeting.~~

(2) ~~Keep the journal and minutes of city commission proceedings and its committees.~~

(23) ~~To be~~ the custodian of the city seal, all ordinances and resolutions and all records and papers of a general or permanent character pertaining to the affairs of the city.

Formatted: Indent: Left: 0", Hanging: 0.5"

(3) ~~To be clerk of the tax equalizing board.~~

Formatted: Indent: Left: 0", Hanging: 0.5"

(4) ~~To preserve, file and index all contracts to which the city is a party, which file and record shall be open to the inspection of all interested persons at all reasonable times.~~

(5) ~~To perform the posting of any ordinance, resolution, or proclamation when posting is provided for in this revised Charter.~~

(6) ~~To perform such other duties appropriate to his office as may be imposed upon him by law, the ordinances of the city and by direction of the city manager.~~

(4) Have the power to administer oaths.

(5) Serve as the supervisor of municipal elections and be responsible for the conduct of such elections in the manner prescribed by state law, this charter, and city ordinances; provided, however, the city commission may delegate any or all such municipal election duties and/or authority to the County Supervisor of Elections as deemed necessary by the city commission.

Formatted: Indent: Left: 0", Hanging: 0.5"

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

Formatted: Indent: Left: 0", Hanging: 0.5"

Sec. 34. City attorney; ~~prosecutor.~~

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

~~(2) The city commission is authorized to appoint a city prosecutor whose primary responsibility and duty shall be to prosecute on behalf of and in the name of the city cases in and before the [municipal county] court of the city and to represent the city in all appeals from the [municipal county] court. The city prosecutor shall perform such other duties as may be directed by the city attorney under whose direction and supervision he shall work.~~

~~Sec. 35. City engineer.~~

~~The city commission is authorized to hire or retain a city engineer at such compensation as shall be determined by the said city commission for the purpose of advising the commission and other city officers and employees on all matters pertaining to engineering. Said city engineer shall be a licensed engineer under the laws of the State of Florida.~~

Sec. 356. Police department; chief of police.

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

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

~~(3) The chief of police and his deputies shall have the power and authority immediately to arrest, with or without warrant, in conformance with the general laws of the state pertaining to arrest, and also to take into custody any person who shall commit, threaten or to commit [or threaten to commit] in his presence or within his view, any offense prohibited by the ordinances and laws of the city, and shall without unnecessary delay bring the offenders before the [municipal county] court to be dealt with according to law.~~

~~(4) The chief of police, during the absence of or disability of the judge, or when the judge is not accessible for the reasonably prompt taking of bail, shall have power and authority to take temporary bail for the appearance of an accused person, and if such person fails to appear, the [municipal county] judge shall have power to declare such bond or security forfeited or estreated; provided, that the [municipal county] judge shall have power at any time after arrest of the accused and before sentence is imposed on production of the accused before him, to increase or decrease the amount of such bail as fixed by the chief of police, and if increased, to commit such accused person to custody until such increased or additional bail is provided.~~

~~(53) The chief of police shall attend such meetings of the city commission as he shall be directed to attend and aid in the enforcement of order under the direction of the presiding officer. He shall execute the commands of the city commission and all processes issued by authority thereof which shall be issued to him by the mayor-commissioner. He shall [attend in person or by deputy the municipal court during its sittings; execute the commands and processes of said court, aid in the enforcement of order therein and] perform such other duties appropriate to his the office as may be imposed upon him the chief by law, the ordinances of the city, and by direction of the city manager, consistent with this charter-act [Charter]. He shall have the right to suspend, subject to Florida Statutes as from time to time amended, any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause, and he shall immediately report the fact of such suspension to the city manager for final action.~~

~~Sec. 37. Reserved. [Secs. 36, 37. Reserved]~~

ARTICLE V. ELECTIONS

Sec. 38. Referendum.

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

~~Sec. 39. City commission to regulate.~~

~~The city commission shall, by ordinance, make all regulations which it considers needful or desirable, not inconsistent with this revised Charter, for the conduct of municipal elections, and for the prevention of fraud therein. Inspectors and clerks of elections shall be appointed by the city commission.~~

Sec. 4039. Conduct generally.

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

Sec. 41. Qualifications of electors.

Any person who is a resident of the city who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and this revised Charter, shall be an elector of the city.

Sec. 42. Registration of voters.

Formatted: Indent: First line: 0"

The city clerk shall be the registration officer for the city and shall register all persons applying to him whose names are not already borne upon the registration book and who are qualified as electors under the provisions of this Charter. For this purpose the registration book shall always be open at the office of the city clerk, except that same shall be closed for thirty (30) days before and during the day of any city election. Each person applying to be registered shall make the following oath, which will be administered by the registration officer or his duly appointed deputy:

"I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, and that I am qualified to register as an elector under the Constitution and laws of the State of Florida; that I have
~~never previously registered to vote in any other jurisdiction.~~
~~been registered under the name of~~

_____ at _____
and request that my prior registration be cancelled
and that all of the information on this form is true."
Any person taking such oath who shall swear falsely shall be guilty of perjury.

Sec. 4340. Party insignia on ballots; form to be as in state, county elections.

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

Sec. 4441. Qualification of candidates in groups~~districts~~; time; procedure; runoff election.

(a) The city clerk, as the registration officer, shall designate the city commission by individual ~~grouping~~districts, with commissioners² designated Groups I through IV4 and the mayor-commissioner designated district 5 elected Group V at-large.

(b) All candidates for office of the mayor-commissioner or commissioners shall register their names, together with the name of the ~~group~~ district to which they aspire, with the city clerk. The period within which this registration must occur shall be determined by ordinance, ~~but in no event, other than delay caused by natural disasters or other extreme emergencies, shall the period commence more than ninety (90) days nor later than thirty (30) days preceding the date of such election, and the registration period shall be open for a minimum period of fifteen (15) days.~~

(c) The winner of a district election shall be the candidate receiving a majority of the votes cast within the district general election, which majority of the votes shall mean at least greater than fifty percent (50%) of the votes cast plus one vote. In the event of a tie between two (2) candidates, or if no candidate fails to receives a clear majority of votes cast within a group district general election, a runoff election shall be held on the second Tuesday of April the date specified by ordinance and the two (2) candidates receiving the equal votes, or, in the event of no clear majority votes, the two (2) candidates receiving the greatest votes within a group district shall be the only candidates on the ballot for such runoff election. In the event of a tie during the runoff election, the winner of the runoff election shall be selected by a flip of a coin.

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

Sec. 4542. Fee; withdrawal.

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

Sec. 4643. General elections.

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

Sec. 4744. Special elections.

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

Sec. 4845. Write-in candidates.

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

Sec. 4946. Absentee voting.

The provisions of the general laws of the State of Florida governing absentee voters shall be applicable to general, recall and special elections held within the city.

Sec. 5047. Polling places.

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

Sec. 5148. ~~Polling hours; e~~Canvassing Board of returns.

~~The polls shall be open at seven (7) o'clock a.m., and shall close at seven (7) o'clock p.m. The result of the voting, when ascertained, shall be certified by return in duplicate, signed by the clerk and a majority of the inspectors[,] to the mayor and the other to the city clerk, both of whom shall transmit such returns to the city commission at its next regular meeting thereafter. At such meeting the city commission shall canvass the returns and the results as shown by such~~

returns shall be by the city commission declared as the result of the election. The city clerk shall, not later than noon of the second day after the canvass of said election, furnish a certificate of election to each person shown to have been elected.

(1) A city canvassing board shall be established for the purposes of canvassing ballots and election results. The canvassing board shall be composed of the city clerk and two (2) citizens who shall be selected by majority vote of the city commission. A third and fourth citizen shall also be selected by majority vote of the city commission to serve as a first and second alternate canvassing board member. The canvassing board members shall be appointed at least ninety (90) days before July 1st of each year and shall serve a one year term commencing on July 1st and ending June 30th the following year, or until their successors are appointed.

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

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

(4) If required by statute, or authorized by a majority vote of the City Commission, the duties of the canvassing board with regard to a particular election may be delegated to the County Canvassing Board or such other governmental canvassing entity as established pursuant to interlocal agreement. If the duties of the canvassing board are delegated in accordance with this section, the entity to which such duties are delegated shall not be bound to those canvassing procedures provided by city ordinance and charter and shall otherwise canvass the election subject to those laws, rules, procedures, and guidelines to which such entity is ordinarily bound. The city clerk shall obtain a certification of the results of the election from the canvassing entity to which canvassing duties have been delegated and shall submit such certification to the City Commission to be recorded in the minutes of the next City Commission meeting.

Formatted: Tab stops: 0.5", Left + Not at 0.25"

Formatted: Double underline

[Sections 49, 50, 51, 52, 53, 54 Reserved]

ARTICLE VI. RECALL ELECTIONS

~~Sec. 52. Adoption of Florida State Law--Recall.~~

~~It is hereby adopted for the purpose of establishing procedures for recall of any member of the city commission[,] F.S. ch. 100, as from time to time may be amended.~~

ARTICLE VI. INITIATIVE AND CITIZEN REFERENDUM.

Sec. 55. Initiative and Referendum.

(1) Initiative. The registered voters of the city shall have power to propose ordinances to the city commission and, if the city commission fails to adopt an ordinance so proposed without any

change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, comprehensive planning, zoning, or salaries of city officers or employees.

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

Sec. 56. Commencement of proceedings.

Any five (5) registered voters of the city may commence initiative or citizen referendum proceedings by filing with the city clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

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

Sec. 57. Petitions.

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

(2) *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.

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

(4) *Time for filing citizen referendum petitions.* Citizen referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.

Sec. 58. Procedure for filing.

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

(2) *Commission review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the city commission. The city commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the commission's determination shall then be a final determination as to the sufficiency of the petition.

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

~~Sec. 59. Citizen referendum petitions; suspension of effect of ordinance.~~

~~When a citizen referendum petition is filed with the city clerk the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:~~

- ~~(1) There is a final determination of insufficiency of the petition;~~
- ~~(2) The petitioners' committee withdraws the petition;~~
- ~~(3) The commission repeals the ordinance; or~~
- ~~(4) Thirty (30) days have elapsed after a vote of the city on the ordinance.~~

← --- Formatted: Bullets and Numbering

~~Sec. 60 59. Action on petitions.~~

--- Formatted: Double strikethrough

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

--- Formatted: Tab stops: 0.5", Left

after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

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

(3) *Withdrawal of petitions.* An initiative or citizen referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least two-thirds (2/3 rds) 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. 6160. Results of election.

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

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

ARTICLE VII. ANNEXATION

Sec. 53. Adoption of Florida State Law -- Annexation. —

It is hereby adopted for the purpose of establishing procedures for annexation or contraction and the adjustment of municipal boundaries, F.S. ch. 171, as from time to time may be amended.

ARTICLE VII. CHARTER REVIEW AND AMENDMENT.

Sec. 5461. Charter Review; amendment.

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

Formatted: Double underline

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

ARTICLE VIII. TAX ADMINISTRATION

Sec. 54. License taxes.

(1) The city commission is authorized to levy and impose license taxes, by ordinance, for the purposes of regulation and revenue, upon all occupations and upon any and all privileges, and to create and fix the amounts to be paid, without regard to the amounts fixed for state and county license taxes; to provide for the collection of the same, and to provide for penalties for failure or refusal to pay such licenses. All such licenses so imposed shall constitute a legal indebtedness to the city which may be recovered in any court of competent jurisdiction. Licenses shall be issued for the periods and be transferable as provided by the general law for state licenses. The agent or agents of nonresident proprietors shall be severally responsible for carrying on business in like manner as if they were proprietors. The fact that any person, firm or corporation, reporting himself or itself as engaged in business, calling, profession, or occupation, for the transaction of which a license is required, or that person exhibiting a sign or advertisement indicating engagement in such business, calling, profession, or occupation, shall be conclusive evidence of the liability of such person, firm or corporation to pay a license.

(2) The licensing and taxing power herein conferred shall include the power to license and tax businesses, occupations, privileges and trades, which have a situs outside the city, but which transact, solicit, or engage in any business in the city, or render any service therein, or place any profit-making machine, devise [device] or contrivance therein. In addition to providing a penalty for violating any such licensing, or taxing ordinance, collection or enforcement of such license fee or tax may be enforced by distress warrant in [the] manner provided for collection of personal property taxes, or by appropriate injunction against violators of the ordinance. The city may refuse to issue licenses to any person, firm, or corporation for continued failure to comply with any lawful ordinance of the city. Such licenses may be issued upon such conditions as may be imposed by ordinance.

Sec. 55. Purpose of taxes; limits.

The city commission shall have the right to raise by taxation on the taxable property within the corporate limits of the City of Winter Garden, and on licenses, such amounts as may be necessary to carry on the government of said city, not to exceed ten (10) mills (except as otherwise provided by law) on the dollar of the assessed valuation of such taxable property as set forth in the county assessment rolls; and, in addition thereto, shall have the right to levy such additional taxes as may be necessary to pay the interest on, and to provide a sinking fund for the ultimate redemption of the outstanding bonds of said city, and such additional bonds of said city as may from time to time be issued in accordance with law; and to pay any lawful judgment which the city may be compelled to satisfy.

Sec. 56. Taxes; additional millage.

There may be levied additional millage when authorized by the laws of the State of Florida.

Sec. 57. Levy of taxes; transmittal to collector; assessor's certificate, warrant.

As soon as practicable after the receipt of the assessment roll, the city commission shall determine the amount and fix the rate of taxation and make the annual tax levy for the current year. The city clerk shall notify the county property assessor of such amounts. If, in any year, the city commission shall fail to pass an ordinance levying a millage, or if the levy in any year shall be invalid or inoperative, the returns of taxes and tax levies for the fiscal year shall be the same as it was the year before, item for item.

Sec. 58. Tax liens.

All taxes on real and personal property shall be a lien superior to all others and shall relate back to the first day of January of the year for which they are assessed and levied. The taxes on real property shall be and remain a lien thereon until paid, and the said lien or any proceedings to enforce it and to collect the taxes on real property shall not be barred by any statute of limitations now existing, nor shall the statute of limitations hereafter enacted which does not in terms refer to the lien of the taxes of the City of Winter Garden and the proceedings to enforce it and to collect the taxes.

Sec. 59. Enforcement of property taxes.

The lien of any and all taxes, except special assessments, shall be enforced as provided for in F.S. ch. 197, as from time to time may be amended.

ARTICLE ~~XVIII~~. FISCAL MANAGEMENT

Formatted: Double strikethrough

Sec. 62. Fiscal Year.

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

Sec. 63. Submission of budget; budget message.

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

Sec. 64. Budget.

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

Sec. 65. City Commission action on budget.

The city commission shall adopt the budget on or before the thirtieth day of September each year. The city commission shall provide notice and hold a public hearing on the budget in accordance with state law.

Sec. 665. Amendments after adoption.

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

(2) Emergency appropriations. To address a public emergency affecting life, health, property or the public peace, appropriations may be made by emergency appropriations by an emergency ordinance in accordance with Section 20. To the extent that there are no available unappropriated revenues or fund balances to meet such appropriations, the city commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time; but the emergency notes and renewals of any fiscal year shall be paid no later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(3) Reduction of appropriations. If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the city manager shall report to the city commission, without delay, the estimated amount of the deficit, any remedial action taken by the city manager and the city manager's recommendations as to any other steps to be taken. The city commission shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one or more appropriations.

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

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

Sec. 676. Capital Program.

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

Sec. 687. Issuance of Bonds.

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

Sec. 698. Independent Audit.

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

[Secs. 69, 70, 71, 72, 73, 74, 75, 76. Reserved]

Formatted: Double strikethrough

Formatted: Double strikethrough

ARTICLE IX. SPECIAL ASSESSMENTS

~~Sec. 60. Time for payment of assessments; installment payment.~~

~~Special assessments, for whatever purpose levied, may be made payable in installments, but assessments for permanent improvements may be made payable within three (3) years in annual or more frequent installments, and assessments for current services [shall be payable within the year during which the service] is rendered.~~

~~**Editor's note:** That portion of section 60 enclosed in brackets was inadvertently omitted by the city in typing the Charter.~~

~~Sec. 61. Resolution declaring intention required for special assessments.~~

~~Prior to the exercise of any powers conferred by this revised Charter, the commission shall declare by resolution its intention to exercise such powers for a stated municipal purpose. Such resolution shall describe generally the contemplated purpose, and shall direct the city manager to have a report prepared thereon. If the contemplated purpose consists of a work, service, or improvement, any portion of the cost which is to be assessed against property deemed to be benefited thereby, the resolution shall also specify the portion of the cost so to be assessed, the limits of the proposed area of assessment, the method of spreading the assessment over the parcels of property within that area, and the number of installments in which the assessments may be paid. The commission shall cause a copy of the resolution to be published at least once within seven (7) days after its adoption in a newspaper of general circulation within the city.~~

~~Sec. 62. City manager to furnish plans, estimates of costs and apportionment.~~

~~The report hereinbefore required by this article shall consist of a detailed estimate of the cost of the proposed work, service or improvement, including all necessary surveys, plans, profiles and specifications; estimates of the value of and proposed awards of compensation for any land or other property proposed to be taken or damaged; estimates of the amount of assessment for benefits to be levied against each parcel of property affected; a statement showing the amount of any delinquent taxes or assessments outstanding against each parcel, and showing the amount of special assessments levied, but not yet delinquent, outstanding against each parcel, including assessments levied by all taxing agencies if any are known; and statement by the city manager or such other officer as shall be designated for the full value as determined for the assessment of taxes for the last preceding year of each parcel of property against which any benefit is to be assessed. A copy of the report when completed, shall be placed on file for public inspection in such office of the city as the city manager may designate.~~

Sec. 63. Computation of cost and apportionment.

~~The cost of any work, service or improvements, to be paid in whole or in part by assessments on property specially benefited may include the direct cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of assessments, a reasonable charge for the services of the administrative staff of the city, and any other item of cost which may reasonably be attributed to the proposed work, service or improvement; and the amount to be assessed against all property specially benefited by any such proposed work, service or improvement shall be apportioned among the individual parcels in proportion to their respective special benefits in the manner designated by the commission in the preliminary resolution. If any property deemed benefited shall by reason of any provision of law be exempt from assessment, a proportionate share of the cost shall be assessed against such property and such assessment may be paid by the city.~~

Sec. 64. Hearing on special assessments required; notice.

~~Upon the completion and filing of said report hereinbefore required by this article, the city manager or such other officer as shall be designated shall cause notice to be given stating the nature of the proposed work, service or improvement; the place and time at which the report may be inspected; and the place and time at which all persons interested, or their agents or attorneys, may appear before the board of equalization hereinafter provided, and be heard concerning the matters contained in the preliminary resolution and the report. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property assessed, and to the person in whose name the property is assessed for taxation and by publication of a copy of the notice at least once in a newspaper of general circulation in the city. The city manager or such other officer as shall be designated shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice[,] but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of the hearing shall be at least ten (10) and not more than thirty (30) days after the city manager or such officer as shall be designated shall have completed publication and service of notice as provided in this section.~~

Sec. 65. Effect of insufficient or excessive special assessments.

~~No special assessment shall be held invalid because the amount thereof is either more or less than the amount required for the work, service or improvement for which made. If the amount be more than necessary, the excess shall first be credited on any unpaid installments of the assessments already levied against the individual parcels of property and any balance then remaining shall be refunded to the property owners in proportion to those assessments. If the amount assessed be less than necessary, or if the court upon appeal shall award a greater sum or assess a lesser sum than that appealed from, the additional amount required may, in the discretion of the commission, either be paid by the city from any funds available therefor or be assessed against the property benefited by the work, service or improvement and added to the original assessment. Whenever any such additional assessment is to be made, the commission shall by resolution refer the matter to the board of equalization which, upon not less than ten (10) days' notice of the time and place of meeting published in a newspaper of general circulation in the city, shall meet and hear all parties in interest whose property would be affected by such~~

additional assessment. Thereafter, all the proceedings of any case shall be the same as provided by this revised Charter in case of an original assessment, including the right of appeal to the circuit court.

Sec. 66. ~~Annulment, abandonment of special assessment or condemnation proceedings.~~

All proceedings begun under this article, may, by resolution of the commission be abandoned in whole or in part at any time during the pendency thereof or within sixty (60) days after the final order of any court upon appeal from an award or assessment. When proceedings are abandoned by resolution of the commission, as provided by this section, the commission may not begin new proceedings involving the same work, service, improvement, or action within six (6) months after abandonment. If prior to the resolution of abandonment, possession of condemned property has been taken, the owner shall have a right of action to recover damages for the use and occupation with interest thereon from the date when possession was taken, with due allowance for attorney's fees and costs.

Sec. 67. ~~Collection and enforcement of special assessments.~~

The lien on all special assessments shall be enforced by F.S. ch. 173, as from time to time may be amended.

ARTICLE ~~XIX~~. MISCELLANEOUS PROVISIONS

Sec. 94. ~~Fiscal year.~~

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

Sec. 95. ~~Tort suits against city; notice; investigation.~~

It is hereby adopted for the purpose of establishing procedures for maintaining a tort action against the city, F.S. § 95.241, as from time to time may be amended.

Sec. ~~96~~94. ~~Posting allowed as alternative to publication.~~

Formatted: Double strikethrough

~~Except where prohibited by law, whenever this revised Charter requires publication in a newspaper of any ordinance, assessment rolls, or other item, posting of such item in three (3) public places within the city, one of which shall be the city hall, may be used as an alternative procedure.~~

Sec. ~~97~~570. ~~Severability clause.~~

Formatted: Double strikethrough

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

Sec. 98. Repealing clause.

All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 99. When Charter becomes effective; restriction required.

- (1) This revised Charter shall become effective when it shall be ratified and approved by a majority of the qualified electors of the City of Winter Garden, voting at a regular election to be held in said city.
- (2) In the event of the ratification of this revised Charter the same shall become effective immediately upon the official determination of said ratification and filing with the State of Florida. It shall not be necessary that a majority of the qualified electors of said city cast votes at said election.

Sec. 100. Former Charter to continue if not ratified.

Should this revised Charter not be adopted at the regular annual election herein provided for, then the Charter shall remain in force and effect.

Formatted: Indent: First line: 0"

ARTICLE X. BOARD OF EQUALIZATION

Sec. 68. Composition, duties and authority.

A board of equalization of the city shall be composed of the city commission and the clerk to hear and determine all matters pertaining to the revision of special assessments. For the purpose of carrying out its powers and duties as conferred by this Charter, the board shall have power to take sworn testimony, subpoena witnesses, administer oaths, and compel the production of books, papers, documents and other evidence, and shall be required to provide for and to preserve a stenographic transcript of its hearings and proceedings.

Sec. 69. Conduct of special assessment hearings.

The board of equalization shall meet from time to time as often as necessary for prompt disposal of its official business and at the time and place specified in any notice given as hereinbefore provided it may continue to meet by adjournment to such time and place as it may deem proper until all parties in interest shall have had a reasonable opportunity to be heard.

Sec. 70. Report by board to commission.

After the hearing upon any proposed work, service, improvement or action the board of equalization may approve as originally made or may modify the report prepared by the city manager as hereinbefore provided in any way it deems necessary to accomplish a fair and equitable assessment of benefits or award of damages or compensation, not inconsistent with the provisions of this Charter. Thereafter it shall send the report to the commission as modified and approved, together with any additional recommendations or information it may wish to include.

Sec. 71. Setoff of assessments against awards.

~~If any assessment of benefits be made against any property and an award of compensation or damages be made in favor of the same property, the board of equalization shall, in its report to the commission, assess against or award in favor thereof, as the case may be, only the difference between such assessment of benefits and the award of damages or compensation.~~

Sec. 72. Consideration of report by commission.

~~Any report made to the city commission by the board of equalization, as hereinbefore provided, shall lie over until the next regular meeting of the commission occurring at least one (1) week after the reception thereof. Thereafter, the commission may approve the report as submitted, modify, reject, or refer it back to the board for further hearings, consideration, and report. Thereafter the board shall again submit its report to the commission which shall proceed as in the case of an original report.~~

Sec. 73. Final report and ordinance.

~~Whenever the commission determines to proceed with the work, service, improvement, or action described in any report of the board of equalization, it shall pass an ordinance confirming such report and directing that such work, service, improvement, or action be carried out in accordance with its preliminary resolution and the report as finally approved by [the] commission. Upon the passage of this ordinance, any work, service, improvement, or action provided for therein shall, subject to the provisions of this article, be deemed legally authorized and all awards of damages or compensation and assessments or benefits so provided for shall be deemed duly and legally made.~~

Sec. 74. Administrative review of special assessments.

(a) ~~Any owner of an interest in property which is affected by the ordinance hereinbefore provided, may within twenty (20) days from the date of publication of the ordinance file with the board of equalization a petition for rehearing and reconsideration of the award of compensation or assessment of benefits, or both, on any one or more of the following grounds:~~

- ~~(1) Fraud or bad faith in the adoption by [the] commission of the ordinance or preliminary resolution;~~
- ~~(2) Irregularities in the acts and proceedings of [the] commission or the board of equalization prejudicial to such property interest;~~
- ~~(3) Inadequacy of the award of compensation or excessive character of the assessment of benefits.~~

(b) ~~The board of equalization may take further evidence and shall fully consider the merits of each petition for review. If the board of equalization does not issue its decision within thirty (30) days from the filing of a petition, the relief demanded therein shall be deemed denied. Upon such rehearing the board of equalization may increase or decrease the award of compensation or assessments of benefits, and shall certify its decision to the city manager or such other officer as~~

shall be designated and who shall record such changes on the assessment roll and other appropriate financial records.

Sec. 75. Judicial review of special assessments.

An appeal from any decision of the board of equalization made pursuant to the immediately preceding action may be taken by an interested party to the circuit court, in conformity with general law. No objection which could have been made at the rehearing before the board of equalization shall be raised for the first time upon such appeal. The city manager or such other officer as shall be designated shall be served with a copy of the notice of appeal and within five (5) days after service of such notice he shall transmit to the clerk of the court a certified copy of the report of the board of equalization as confirmed and approved by the commission. Upon appeal pursuant to this section, the court may render a judgment affirming, annulling or modifying, and affirming as modified, the action or decision of the board.

Sec. 76. Effect of insufficient or excessive special assessments.

No special assessment shall be held invalid because the amount thereof is either more or less than the amount required for the work, service or improvement for which made. If the amount be more than necessary, the excess shall first be credited on any unpaid installments of the assessments already levied against the individual parcels of property and any balance then remaining shall be refunded to the property owners in proportion to those assessments. If the amount assessed be less than necessary, or if the court upon appeal shall award a greater sum or assess a lesser sum than that appealed from, the additional amount required may, in the discretion of the commission, either be paid by the city from any funds available therefor or be assessed against the property benefited by the work, service or improvement and added to the original assessment. Whenever any such additional assessment is to be made, the commission shall by resolution refer the matter to the board of equalization which, upon not less than ten (10) days' notice of the time and place of meeting published in a newspaper of general circulation in the city, shall meet and hear all parties in interest whose property would be affected by such additional assessment. Thereafter, all the proceedings of any case shall be the same as provided by this revised Charter in case of an original assessment, including the right of appeal to the circuit court.

ARTICLE XI. FINANCE*

Sec. 77. Bond authorized; definitions.

General obligation bonds, revenue bonds, excise tax bonds and assessment bonds may be issued under the provisions of this article. Whenever, the word "bond" or "bonds" only is used in this article such word shall include the general obligation bonds, revenue bonds, excise tax bonds and assessment bonds provided for in this article to the full extent that the provisions of this article are applicable to such different types of bonds. The city may in its discretion designate any of such bonds as certificates instead of bonds.

Sec. 78. General obligation bonds authority; security; limitation.

~~(1) The city shall have the power to issue general obligation bonds to finance the cost or part of the cost of the construction, acquisition, reconstruction, extension, repair or improvement of any works, properties, improvements or other purposes, except for the payment of current expenses, which the city is authorized by this Charter, or any other law to construct, acquire or undertake; provided, however, that, except for refunding bonds, no general obligation bonds shall be issued unless the issuance thereof shall have been approved by the qualified electors residing in said city at an election called and held in the manner provided by this revised Charter and statutes of the State of Florida relating to such elections.~~

~~(2) The full faith and credit of the city shall be pledged for the payment of the principal of and interest on such general obligation bonds and the city shall be unconditionally and irrevocably obligated to levy ad valorem taxes on all taxable property in said city without limitation as to rate or amount to the full extent necessary for the payment of such principal and interest on such general obligation bonds and for any reserve funds provided therefor.~~

~~(3) The aggregate principal amount of such general obligation bonds outstanding at any one time shall not exceed twenty-five per centum (25%) of the aggregate principal amount of the assessed value of all taxable property, both real and personal, in said city as shown by the assessment roll then in effect for taxation of such real and personal property for municipal purposes; provided, however, that any revenue bonds, excise tax bonds or assessment bonds for which the full faith and credit and taxing power of the city shall have been pledged as additional security as provided in this article shall be excluded in determining the power of the city to issue general obligation bonds under the limitations contained in this paragraph.~~

~~Sec. 79. Revenue bonds—Authorized; purpose.~~

~~The city shall have power to construct, acquire, repair, improve, extend and operate water systems, sewer systems, gas systems, electric systems, public parking systems, including both off street and on street public parking facilities, and to issue from time to time revenue bonds payable from the revenue derived from such water systems, sewer systems, gas systems, electric systems, public parking systems, or any other revenue producing undertakings or enterprises which the city is authorized by this Charter or any other law to construct or acquire, (hereinafter referred to as "revenue undertakings"), or any combination of such systems or other revenue undertakings to finance or refinance the cost or part of the cost of the acquisition, construction, reconstruction, repair, extension or improvement of such systems or other revenue undertakings or any combination thereof, including the acquisition of any property, real or personal, or mixed, therefor or other costs in connection therewith.~~

~~Sec. 80. Same—Consolidation of undertakings authorized.~~

~~Any two (2) or more of such systems or other revenue undertakings may be combined and consolidated into a single revenue undertaking, and may thereafter be operated and maintained as a single revenue undertaking. The revenue bonds authorized herein may be issued to finance any one or more of such revenue undertakings separately, or to finance two (2) or more of such revenue undertakings and regardless of whether or not such revenue undertakings have been combined and consolidated into a single revenue undertaking as provided herein. If the governing body of the city deems it advisable, the proceedings authorizing such revenue bonds may provide that the city may thereafter combine the revenue undertakings then being~~

~~financed or theretofore financed with other revenue undertakings to be subsequently financed by the city and that revenue bonds to be thereafter issued by the city to finance such subsequent revenue undertakings shall be on a parity with the revenue bonds then being issued under such terms, conditions and limitations as shall be provided, and may further provide that the revenues to be derived from the subsequent revenue undertakings shall at the time of the issuance of such parity revenue bonds be also pledged to the holders of any revenue bonds theretofore issued to finance the revenue undertakings which are later combined with such subsequent revenue undertakings.~~

~~Sec. 81. Same - Additional security.~~

~~The city shall also have power to pledge as additional security for such revenue bonds issued under this article any utilities services taxes, cigarette taxes, franchise taxes, occupational license taxes, or any other excise taxes or other funds which the city may have available to pledge to the payment of the principal of or interest on such revenue bonds, and for reserves therefor, except moneys derived from ad valorem taxes, or any two (2) or more of such excise taxes or other funds.~~

~~Sec. 82. Excise tax bonds.~~

~~The city shall also have power to issue from time to time excise tax bonds payable from the proceeds of utilities service taxes, cigarette taxes, franchise taxes, occupational license taxes, or any other excise taxes or other funds which the city may have available to pledge to the payment of the principal of and interest on said excise tax bonds, except moneys derived from ad valorem taxes, to finance or refinance the cost or part of the cost of the construction, acquisition, reconstruction, extension, repair or improvement of any works, properties, improvements or other purposes, except for the payment of current expenses, which the city is authorized by this Charter or any other law to construct, acquire or undertake.~~

~~Sec. 83. Assessment bonds.~~

~~(1) The city shall have the power to issue assessment bonds to finance the cost, or part of the cost, of any works or improvements which the city is authorized by this revised Charter or any other law to construct, reconstruct or improve and to specifically assess the cost, or part of the cost, thereof against the lands and real estate specially benefited thereby, and to pledge for the payment of such assessment bonds all or any part of the special assessments levied or to be levied for such works or improvements. The proceedings authorizing the issuance of such assessment bonds may provide that all such special assessments levied for such works or improvements may be deposited in a special fund, which may be pledged for the payment of such assessment bonds, and for reserves therefor. The city may also pledge as additional security for such assessment bonds any special assessments theretofore levied for other works or improvements.~~

~~(2) The city shall also have power to issue assessment bonds and to pledge for the payment thereof any special assessments theretofore levied for any such works or improvements, regardless of whether such special assessments have been levied for any one work or improvement, or for two (2) or more works or improvements, and regardless of the times when such special assessments were levied for such works, betterments or improvements. The proceedings authorizing the issuance of such assessment bonds may provide that all such special~~

assessments levied for such works or improvements may be deposited in a special fund which may be pledged for the payment of such assessment bonds and for reserves therefor.

(3) ~~The proceedings authorizing the issuance of any of such assessment bonds may provide that any special assessments, or any part thereof, pledged for the payment thereof, regardless of the time of the levy of such special assessments, may be paid in full, with or without interest in the discretion of the city, within a period to be determined by the governing body of the city, and that after the expiration of such period the annual installments of such special assessments becoming due thereafter may not be paid prior to the maturity dates of such annual installments except upon payment of all interest due or to become due to the respective maturity dates of such annual installments or under such terms and conditions as to prepayment of such annual installments as the governing body of the city shall determine.~~

(4) ~~The power to issue the assessment bonds provided for in this article shall be deemed additional and supplemental authority and shall not affect the power of the city to issue assessment bonds or other assessment obligations under any other provisions of this revised Charter or under any other law.~~

(5) ~~The city shall also have power to pledge any special assessments as additional security for the payment of any revenue bonds or excise tax bonds issued to finance the works or improvements for the cost, or part of the cost, of which said special assessments have been or are to be levied, under such terms and conditions as the governing body of the city shall determine.~~

Sec. 84. Items included in cost of works financed by bonds.

~~The cost of any works, properties, improvements or other purposes financed by the issuance of bonds under this article shall include, but not be limited to, construction costs, engineering, fiscal or financial and legal expenses, surveys, plans and specifications, interest during construction or acquisition and for one (1) year thereafter, initial reserve funds, discount, if any, on the sale or exchange of bonds, acquisition of real or personal property, including franchises, and such other costs as are necessary and incidental to the construction or acquisition of such works, properties, improvements or other purposes and the financing thereof. The city shall have power to retain and enter into agreements with engineers, fiscal agents or financial advisers, attorneys, architects or other consultants or advisers for the planning, supervision and financing of such works, properties, improvements or other purposes upon such terms and conditions as shall be deemed advisable to the governing body of the city.~~

Sec. 85. Pledge of taxing power on revenue, excise tax or assessment bonds.

(1) ~~The city shall also have power to pledge as additional security for the payment of any revenue bonds, excise tax bonds or assessment bonds its full faith and credit and ad valorem taxing power, and to provide that such revenue bonds, excise tax bonds or assessment bonds shall be payable to both principal and interest and reserves therefor, from ad valorem taxes levied on all taxable property in the city without limit as to rate or amount to the full extent that any revenues, excise taxes or special assessments, or any combination thereof, pledge[d] therefor are insufficient for the payment of the principal of and interest on such revenue bonds, excise tax bonds, or assessment bonds, and reserves therefor; provided, however, that the full faith and credit and taxing power of the city shall not be pledged for the payment of such revenue bonds,~~

~~excise tax bonds or assessment bonds unless the issuance of the same has been approved at an election of the qualified electors residing in said city called and held in the manner provided in the Constitution and statutes of the State of Florida.~~

~~(2) Notwithstanding any other provisions of this revised Charter or of any other law or laws to the contrary, however, no approval of the qualified electors residing in said city, or any referendum or election of any kind relating to the issuance thereof, shall be required for the issuance of any of said revenue bonds, excise tax bonds or assessment bonds unless the full faith and credit and ad valorem taxing power of the city is pledged for the payment of such revenue bonds, excise tax bonds or assessment bonds.~~

Sec. 86. Authorization, provisions, sale of bonds.

~~(1) The provisions of this section shall apply to any general obligation bonds, revenue bonds, excise tax bonds or assessment bonds issued under this article, said bonds may be authorized by ordinance of the governing body of the city, which may be adopted in the manner provided in this revised Charter for the adoption of ordinances. Said bonds shall bear interest at a rate or rates not exceeding six per centum (6%) per annum, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty (40) years from their respective dates, except that assessment bonds shall not mature later than two (2) years after the maturity of the last annual installment of the special assessments pledged for the payment of such assessment bonds, may be payable in such medium of payment, at such place or places within or without the state, may carry such registration privileges, may be subject to such terms or prior redemption, with or without premium, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form otherwise as such ordinance or subsequent ordinances shall provide. Said bonds may be sold, or exchanged for refunding bonds, or delivered to contractors in payment for any part of the works or improvements financed by such bonds, or delivered in exchange for any properties, either real, personal or mixed, including franchises, to be acquired for such works or improvements, all at one time or in blocks from time to time, in such manner as the governing body of the city in its discretion shall determine, and at such price or prices computed according to standard tables of bond values, as will yield to the purchasers, or the holders of outstanding obligations surrendered in exchange for refunding bonds or the contractors paid with such bonds, or the owners of any properties exchanged for such bonds, income at a rate not exceeding six per centum (6%) per annum to the stated maturity dates of the bonds on the money paid or the principal amount of outstanding obligations exchanged for refunding bonds, or the amount of any indebtedness to contractors paid with such bonds, or the value of any properties exchanged for said bonds.~~

~~(2) Pending the preparation of the definitive bonds, interim certificates or receipts or temporary bonds in such form and with such provisions as the governing body of the city may determine may be issued to the purchaser or purchasers of the bonds issued hereunder. Said bonds and such interim certificates or receipts or temporary bonds shall be fully negotiable and shall be and constitute negotiable instruments within the meaning of and for all purposes of the Law Merchant and the Negotiable Instruments Law of the State of Florida.~~

~~(3) Said bonds may be issued to refund any obligations theretofore issued to finance such revenue undertakings, works or improvements theretofore issued under any law or laws, or for the combined purpose of refunding such outstanding obligations and the construction,~~

reconstruction, extension or improvement of such revenue undertakings, works or improvements, or any other revenue undertakings, works or improvements.

Sec. 87. Bonds declared legal investment.

Notwithstanding any provisions of any other law or laws to the contrary, all general obligation bonds, revenue bonds, excise tax bonds or assessment bonds issued under the provisions of this article, shall constitute legal investments for savings banks, banks, trust companies, executors, administrators, trustees, guardians, and other fiduciaries, and for any board, body, agency or instrumentality of the State of Florida, or of any county, municipality or other political subdivision of such state; and shall be and constitute securities which may be deposited by banks or trust companies as security for deposits of state, county, municipal and other public funds.

Sec. 88. Property, revenue and bonds exempt from taxation.

All property of and all revenues derived from such revenue undertakings financed under this article shall be exempt from all taxation by the State of Florida, or by any county, municipality or other political subdivision thereof. General obligation bonds, revenue bonds, excise tax bonds or assessment bonds issued pursuant to this article shall, together with the income therefrom, be exempt from all taxation by the State of Florida, or by any county, municipality or other political subdivision thereof.

Sec. 89. Contents of bond ordinance.

(1) Any ordinance authorizing the issuance of bonds under this article may contain covenants as to:

- (a) The purposes to which the proceeds of said bonds may be applied, and the securing, use and disposition thereof;
- (b) The use and disposition of revenues derived from revenue undertakings, excise taxes, ad valorem taxes or special assessments pledged for said bonds, and the creation and maintenance of reserve funds;
- (c) The pledging of all or any part of the gross revenues derived from revenue undertakings, excise taxes, ad valorem taxes or special assessments to the payment of the principal of and interest on bonds issued pursuant to this article, and for such revenue and other funds as may be deemed necessary or desirable;
- (d) The fixing, establishment, collection and maintenance of fees, rentals or other charges for the use and services of facilities of such revenue undertakings, and of the rates or amounts of such excise taxes, ad valorem taxes or special assessments pledged for such bonds as will always provide funds sufficient to pay the principal of and interest on such bonds, and all reserves and other funds required by the terms of the ordinance or ordinances authorizing the issuance of such bonds;
- (e) Limitations or restrictions upon the issuance of additional bonds or other obligations payable from the revenues of such revenue undertakings, such excise taxes, ad valorem taxes or special assessments, and the rights and remedies of the holders of such additional bonds, or refunding bonds issued thereafter, and the rank and priority, as to lien and source and security for payment from the pledged funds between bonds issued pursuant to this article and bonds thereafter issued;

(f) ~~The appointment of a trustee or trustees to hold and apply any funds provided for in this article and the appointment of a receiver upon default of the city in the payment of the principal of and interest on said bonds or default under the terms and covenants contained in the proceedings authorizing the issuance of the same;~~

(g) ~~Such other and additional covenants as shall be deemed desirable or necessary for the security of the holders of the bonds issued pursuant to this article.~~

(2) ~~All such covenants and agreements shall constitute valid and legally binding contracts between the city and the holders of any bonds issued pursuant to this article regardless of the time of issuance thereof, and subject to any limitations contained in the proceedings authorizing the issuance of such bonds, shall be enforceable by any holder or holders of such bonds, acting either for himself or themselves alone, or acting in behalf of all other holders of such bonds, by appropriate proceedings in any court of competent jurisdiction.~~

~~Sec. 90. Bondholders lien.~~

~~The holders of the bonds issued pursuant to this article shall have a lien upon revenues derived from revenue undertakings[,] excise taxes, ad valorem taxes or special assessments pledged therefor to the extent and in the manner provided in the ordinance authorizing the issuance of such bonds, which lien shall be prior and paramount and over and ahead of any claims or obligations of any nature against said pledged funds subsequently arising or subsequently incurred, except as may be provided in the ordinance or ordinances authorizing such bonds.~~

~~Sec. 91. Authority to discontinue utility services to consumers.~~

~~In the event that the fees, rentals or other charges for the services and facilities of said revenue undertakings shall not be paid when due, the city shall have power to discontinue and shut off the services and facilities of such revenue undertakings, until such fees, rentals or other charges, including interest, penalties and charges for the shutting off and discontinuance or the restoration of such services and facilities are fully paid. The city may also shut off and discontinue the services and facilities of any other revenue undertakings owned by the city for which fees, rentals or other charges are collected, for the nonpayment of the fees, rentals or other charges for such revenue undertaking[s] owned and operated by the city for which such fees, rentals or other charges are delinquent, and the city shall comply fully with any covenants made in the ordinance authorizing the issuance of revenue bonds pursuant to this article as to the shutting off and discontinuance of the services and facilities of said revenue undertakings for the nonpayment of such fees, rentals or other charges when due. The city may also enforce payment of such delinquent fees, rentals or other charges by any lawful method of enforcement.~~

~~Sec. 92. Construction under article not subject to state regulatory agencies.~~

~~It shall not be necessary for the city, in proceeding under this article to obtain any certificate of convenience or necessity, franchise, license, permit or other authorization from any bureau, board, commission or other like instrumentality of the state in order to construct, acquire, or improve such revenue undertakings or to exercise any of the powers granted in this article; and the fees, rentals or other charges to be fixed and collected for the facilities and services of~~

such revenue undertakings, when constructed, [shall] not be subject to the supervision, regulation or control by any bureau, board, commission or other like instrumentality of the state.

Sec. 93. Bonding powers under Charter declared additional to state law.

This article shall not be construed as repealing or superseding any of the provisions of any general laws of the state relating to municipalities, but to provide an alternative and complete method for the exercise of the powers granted in this article; and the city shall be fully authorized to exercise any powers provided in such general laws upon compliance only with the provisions of such general laws.

~~Secs. 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93. Reserved.~~



CITY CLERK'S OFFICE
300 WEST PLANT STREET
WINTER GARDEN, FLORIDA 34787

P: 407.656.4111
CITYCLERK@CWGDN.COM
WWW.CWGDN.COM

**2019
CHARTER REVIEW COMMITTEE
MEETING SCHEDULE**

2019 MEETING DATES 2nd & 4th Monday of each Month JUNE THROUGH OCTOBER (as needed) 5:30 7:30 p.m.
June 10, 2019 – Organize CRC
June 24, 2019
July 22, 2019
August 12, 2019
August 26, 2019
September 9, 2019* - TBD
September 23, 2019 – Finalize Review
October 14, 2019 – TBD
October 28, 2019 – TBD

**Charter Review Committee to present the review results
to the City Commission at the first available meeting
after completion of the review**

TENTATIVE MEETING LOCATION
City Hall Commission Chambers

***Alternative location – 2nd Floor Conference Room**