

## **PART I CHARTER<sup>1</sup>**

### **Preamble**

#### **PREAMBLE**

We the people of the City of Davenport, under the constitution and laws of the State of Florida, in order to secure the benefits of local self-government and to provide for an honest and accountable Commission-manager government do hereby adopt this Charter and confer upon the City the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. 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.

### **ARTICLE I. POWERS OF THE CITY OF DAVENPORT**

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<sup>1</sup>Editor's note(s)—Ord. No. 638, adopted July 28, 2008, repealed the former City Charter, Div. 1, §§ 1—52, and Div. 2, §§ 1.00—1.13, 2.01—2.15, 3.01—3.03, 4.01—4.03, 5.01—5.10, 6.01—6.05, 7.01—7.07, 8.01—8.04, and 9.01—9.05, and enacted a new Charter as set out herein. The former Div. 1 derived from Chapter 10463 of the Special Laws of Florida, 1925, as amended. Former Div. 2 derived from Ord. No. 246, § 2(1.00—1.03), (2.01—2.15), (3.01—3.03), (4.01—4.03), (5.01—5.10), (6.01—6.05), (7.01—7.07), (8.01—8.04) and (9.01—9.05), adopted July 1, 1985; Ord. No. 421, § I, adopted Aug. 13, 2001; Ord. No. 461, § 1, adopted Sept. 8, 2003; and Ord. No. 483, § 1, adopted Jan. 12, 2004.

The former Charter adopted by Ordinance No. 246 on July 1, 1985, and approved by the electors on December 3, 1985, consisted of two divisions: Division 1, Legislative Charter, and Division 2, City Manager Form of Government. One of the purposes of this Charter is to merge both of the foregoing divisions into one main instrument. Therefore the sections of each of the foregoing divisions have been included with or without amendment into this Charter, or have otherwise been repealed if inconsistent or otherwise superseded by the 1973 Municipal Home Rule Powers Act contained in Chapter 166, Florida Statutes.

This Charter was enacted by Ordinance 638 adopted on July 28, 2008 and approved by the electors on December 2, 2008. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

Pursuant to a referendum election held on April 2, 2013, and as specified and state in Ordinance No. 740, sections 2.01(c)(1) and (2), section 2.03(b) and section 3.01(d) were amended, and section 9.04 was created, enacted and approved by the voters.

Various sections of this charter were further amended, created repealed and enacted by the electors at a referendum election held on January 31, 2017. Former section 9.05 was repealed by electors at a referendum election held on April 1, 2025.

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### **Section 1.01. Creation and Powers of the City.**

The City of Davenport is hereby created which shall have all governmental, corporate and proprietary powers possible for a City to have under the constitution and laws of the State of Florida as fully and completely as though they were specifically enumerated in this Charter.

(Ord. No. 638, § 3, 7-28-08)

### **Section 1.02. Construction.**

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general powers stated in this Article.

(Ord. No. 638, § 3, 7-28-08)

### **Section 1.03. Description of Corporate Limits.**

The City shall include and shall have jurisdiction over all the territory in Polk County, Florida, included within the boundaries as follows:

- (a) The corporate limits of the City shall consist of all land situated within those geographical boundaries described in the Laws of Florida, Chapter 10463-(No. 441), Section 2 (1925), and as further expanded, decreased or otherwise amended pursuant to subsequent legislation and judicial acts. Additionally, the boundaries of the City shall be enlarged or contracted pursuant the procedures specified in the annexation or contraction of property as set forth in Chapter 171, Florida Statutes as it now exists or as it may be renumbered or amended.
- (b) All ordinances of annexation of the City heretofore adopted and as may be adopted prior to the effective date of this Charter are incorporated herein and the lands described in such ordinances, together with the aforementioned boundaries of the City are declared to be the corporate limits of the City.
- (c) The boundary description of the City shall be maintained on file by the City Clerk and shall include all areas annexed by the City.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 1.04. Definitions.**

The following words and phrases, when used in this Charter, shall have the meanings respectively ascribed to them in this Section, except as the context otherwise requires:

- (a) Appointee - An individual appointed by the Davenport City Commission to a certain position for the purpose of performing certain duties and responsibilities.
- (b) Attorney - The City Attorney of Davenport.
- (c) Circulator - a member of the Petitioner's Committee that assists in the distribution of an initiative or referendum petition.
- (d) City - The municipality of Davenport.
- (e) Clerk - The City Clerk of Davenport.

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- (f) Commission - The City Commission of Davenport. The term "Commission" shall include the Mayor and each Commissioner.
  - (g) Commission Member - Any member of the Commission.
  - (h) Department - A branch or division of the City governmental administration.
  - (i) Department Head - An employee of the City who is in charge of and responsible for the proper and effective administration of his or her assigned department.
  - (j) Five Year Vision Plan - A plan designed to promote the general welfare and safety of the citizenry by facilitating the systematic and organized development and maintenance of the City and by ensuring the greatest degree of governmental efficiency.
  - (k) Manager - The City Manager of Davenport.
  - (l) Officer - This term includes the positions of Mayor and each Commissioner, plus any individual appointed to a vacancy of an unexpired term on the Commission. The term also includes persons appointed and serving in the capacity of City Manager, City Clerk and City Attorney.
  - (m) Ordinance - An official legislative action of the Commission, which action is a regulation of a general and permanent nature and enforceable as local law.
  - (n) Registered Voters - All citizens qualified by the Constitution and laws of the State of Florida to vote in the City and who have registered to vote pursuant to law.
  - (o) Regular Election - means the election held on the first Tuesday in April. The term also includes an unopposed, incumbent candidate, or a qualified, unopposed candidate, whether he or she actually appears on any ballot, and whether or not an election actually occurs. An unopposed candidate shall be deemed to have voted for himself or herself at the regular election.
  - (p) Resolution - An expression of the Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Commission.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 1.05. Intergovernmental relations.**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States or any agency thereof.

(Ord. No. 638, § 3, 7-28-08)

## **ARTICLE II. CITY COMMISSION**

### **Section 2.01. Composition, eligibility, election, terms, and term limits.**

- (a) *Composition.* There shall be a City Commission composed of a Mayor and four City Commissioners elected at large by the registered voters of the City.
- (b) *Eligibility.* Only registered voters of the City who have been residents for a minimum of twelve (12) months prior to their qualification for office shall be eligible to hold the office as a Commission Member.

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(c) *Election, terms, and term limits.*

1. All persons currently holding elective office as a Commission Member shall continue to hold such office until their term expires. Thereafter, on the expiration of the said respective term, each elected Commission Member shall be elected for terms of three (3) years, except as otherwise specified in Section 10.01 (c). *Schedule of Initial and Subsequent Elections.*
2. A person may not be elected to more than two (2) consecutive three (3) year terms. At the expiration of the second term, that person shall not be eligible to serve as a Commission Member, either by appointment or by election for a period of one (1) year. The commencement and implementation of term limits shall be as specified in Section 10.01(b), *Schedule of Initial and Subsequent Elections.*
3. The regular election of the Commission shall be held on the first (1<sup>st</sup>) Tuesday in April. Any change to the date and/or time of municipal elections or changes regarding election procedures shall only be effective if fully designated in an Ordinance duly adopted by Commission.
4. If no person receives a majority of the votes cast in the regular election, a run-off election shall be held on the first (1<sup>st</sup>) Tuesday in May for the two (2) persons receiving the highest number of votes in the regular election. Following certification of the election, the elected terms of office shall expire at the next regular meeting and the newly elected Commission Members shall take office during said meeting.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 740, § 5, 1-28-13; Ord. No. 795, § 3(Exh. A), 11-28-16)

**Section 2.02. Compensation; expenses.**

- (a) *Compensation.* The Commission may determine the annual salary of the Mayor and of each Commissioner by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the Commission Member(s) elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months.
- (b) *Expenses.* Each Commission Member shall be authorized to receive reimbursement for actual and necessary expenses incurred in connection with performing official duties for the City, and a fund shall be provided in the annual budget for this purpose. However, the City shall not be responsible or otherwise obligated for the reimbursement of any expenses unless the Commission Member seeking reimbursement submits a proper receipt and until the expenses included with the receipt have been expressly approved for reimbursement by the Commission in an open, public meeting.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 731, § 2, 8-27-12; Ord. No. 795, § 3(Exh. A), 11-28-16)

**Section 2.03. Mayor and Vice Mayor.**

- (a) *Powers and Duties of the Mayor.* The Mayor shall be a voting member of the Commission and shall attend and preside at meetings of the Commission, represent the City in intergovernmental relationships, appoint with the advice and consent of the Commission the members of all boards and committees, present an annual state of the City message and perform all other duties as specified by the Commission. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall have no administrative duties.
- (b) *Election of Mayor and Vice-Mayor.* At a regular election, the voters of the City shall elect a Mayor at large for a term of three (3) years. Annually, during the first regular commission meeting in May, the Commission shall elect from among its members a Vice-Mayor who shall act as Mayor during the absence or disability of the Mayor.

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(Ord. No. 638, § 3, 7-28-08; Ord. No. 740, § 5, 1-28-13; Ord. No. 795, § 3(Exh. A), 11-28-16)

#### **Section 2.04. General powers and duties.**

All powers of the City shall be vested in the Commission except as otherwise provided by law or this Charter.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

#### **Section 2.05. Prohibitions.**

- (a) *Holding other offices.* Except where authorized by law, no Commission Member shall hold any other office or employment with the City during the term for which he or she was elected to the Commission, and no former Commission Member shall hold any compensated appointive city office or employment until one (1) year after the expiration of the term for which he or she was elected to the Commission.

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.

- (b) *Appointment and removal.* No Commission Member shall in any way dictate the removal or appointment of any department head or employee whom the Manager or any of his or her subordinates are empowered to appoint or remove. However, the Commission or any Commission Member may express their views and fully and freely discuss with the Manager any matter pertaining to the appointment and removal of any department head or employee.
- (c) *Interference with administration.* The Commission and any Commission Member shall consult and transact, with department heads and employees, who are under the direction and supervision of the Manager, solely through the Manager. Neither the Commission nor Commission Member shall direct, order or negotiate with any department head or employee, either publicly or privately.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

#### **Section 2.06. Vacancies; forfeiture of office; filling of vacancies.**

- (a) *Vacancies.* The office of Commission Member shall become vacant upon his or her death, resignation, removal from office in any manner authorized by law or by forfeiture of his or her office.
- (b) *Forfeiture of office.* A Commission Member shall forfeit his or her office if he or she:
1. lacks at any time during his or her term of office any qualification for the office prescribed by this Charter, or by law;
  2. violates any express prohibition of this Charter;
  3. fails to attend three (3) consecutive regular meetings of the Commission without being excused by the Commission; or
  4. is convicted of any felony or any other crime involving moral turpitude.

For the purposes of this Section, "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty, no contest or nolo contendere, regardless of whether adjudication is withheld.

A Commission Member, who is subject to forfeiture of office for any of the foregoing acts or offenses, shall be afforded notice and an opportunity to be heard. If requested by the affected member, the Commission shall conduct a hearing to accomplish said purposes. Hearing procedures, time limitations and all other issues necessary

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to properly govern and conduct such a hearing shall be prescribed by Commission in a duly adopted ordinance or resolution, which may be amended from time to time as the Commission deems necessary.

(c) *Filling of vacancies.* A vacancy in the Commission shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) days upon the occurrence of the vacancy, but the Commission by a majority vote of the remaining Commission Members shall appoint a qualified person to fill the vacancy until the next regular election. If the Commission fails to do so within thirty (30) days following the occurrence of the vacancy, the Commission shall call a special election to fill the vacancy, to be held no sooner than ninety (90) days and not later than one hundred twenty (120) days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VII of this Charter. Notwithstanding the requirement in Section 2.08, *Procedure*, concerning the requirement of a three (3) member quorum, if at any time the membership of the Commission is reduced to less than three members, the remaining members may by majority action appoint additional members to increase the membership to three (3).

(d) *Vacancy in Candidacy.*

1. If the withdrawal, death, or removal from the ballot of a qualified candidate following the end of the qualifying period results in only one candidate remaining for that office, a special election shall be scheduled by the Commission not less than sixty (60) days nor more than ninety (90) days after the vacancy in the candidacy has occurred.
  - a. If a special election is called pursuant to Section 2.06(d)(1), a supplemental qualifying period shall be established beginning on the day the vacancy in the candidacy has occurred and ending at 12:00 (noon) on the forty-sixth (46th) day prior to the date of the special election. Any candidate wishing to qualify during this supplemental qualifying period shall do so pursuant to Section 2.01(c), *Election, Terms, and Term Limits* of this Charter, prior to the end of the supplemental qualifying period.
  - b. The remaining candidate for that office shall not be required to requalify for election or pay a second qualifying fee. The remaining candidate shall not be declared an unopposed candidate under Chapter 106, Florida Statutes unless no additional candidate qualifies for election during the supplemental qualifying period. The remaining candidate may continue to accept contributions until he or she is declared unopposed. If he or she is declared unopposed pursuant to this section, the candidate shall be declared elected and the special election shall be canceled.
  - c. The filing of campaign expense statements, pursuant to Chapter 106, Florida Statutes, by candidates in a special election called pursuant to Section 2.06(d)(1), of this section, including the remaining candidate, shall not be later than such dates as fixed by the Clerk. In fixing such dates, the Clerk shall take into consideration and be governed by the practical time limitations and the dates established for such statements in a regular City election.
  - d. If a special election is called pursuant to Section 2.06(d)(1), of this section and other candidates qualify for election during the supplemental qualifying period, supplemental absentee ballots for the special elections shall be mailed by the Clerk to any absentee voter who was mailed an absentee ballot for the regular election. If an absentee voter returns the initial ballot he or she was mailed, his or her vote for that office for which the special election was called will be null and void, but that individual's vote on all other offices and issues shall be counted.
2. If the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period results in no candidates for an office, and more than twenty-one (21) days remain prior to the date of the election, qualifying shall be reopened to allow candidates to qualify for the election to that office in accordance with the Charter. Any candidate wishing to qualify shall do so pursuant to Section 2.01(c), *Election, Terms and Term Limits*, of this Charter, no later than 12:00 noon of the 40<sup>th</sup> day prior to the date of the election.

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- a. If less than twenty-one (21) days remain to the election date after the death, withdrawal or removal from the ballot of the lone qualified candidate for an office, and if a vacancy shall result on the Commission, the remaining Commission Members shall appoint, by majority vote, a person otherwise qualified to be a Commission Member, and the person so appointed shall serve as a Commission Member until the next regular election. If the Commission does not appoint a person to fill the vacancy within thirty (30) days after the first regular commission meeting held after the vacancy has occurred, a special election shall be held in order to fill the vacancy for the unexpired portion of the entire term. The special election shall be held not less than thirty (30) days nor more than ninety (90) days after the initial thirty (30) day period has expired.
  - b. If the qualifying period is reopened pursuant to Section 2.06(d)(2) above, supplemental absentee ballots reflecting the new candidates who have qualified for that office only shall be mailed by the Clerk as soon as possible to any absentee voter who was mailed an absentee ballot. If an absentee voter returns the initial ballot he or she was mailed, his or her vote for the office for which qualification was reopened will be null and void, but the individual's votes on all other offices and issues shall be counted.
3. The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void.
  4. A candidate withdrawing or being removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 2.07. Judge of elections and qualifications of Commission Members.**

The Commission shall be the judge of each City election. The Commission may assign its election duties and responsibilities to a Canvassing Board, or other designated board or committee accompanied by governing rules and procedures pursuant to a duly adopted ordinance, which may be amended from time to time as the Commission deems necessary. The Commission shall determine and be responsible for the qualifications and conduct of each of its Commission Members. As prescribed in Section 2.06(b), *Forfeiture of Office*, the Commission shall enact rules of procedure, shall hold hearings, shall prescribe penalties for the nonattendance or disorderly conduct of its Commission Members, and shall enforce the same.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 2.08. Procedure.**

- (a) *Meetings.* Except as otherwise provided by law, all meetings shall be public.
  1. *Regular meetings.* The Commission shall meet regularly at least twice every month and at such times and places as the Commission may prescribe.
  2. *Special meetings.* A special meeting may be held on the call of the Mayor or, in his or her absence, at the call of the Vice-Mayor, or at the request of two (2) or more Commissioners, or the City Manager and whenever practicable, upon no less than twelve (12) hours' notice to each Commission Member.
  3. *Emergency meetings.* An emergency meeting means a meeting called to immediately address and to take action on a public emergency affecting the life, health, safety and/or property of the City or its residents. The Mayor, one (1) Commissioner or the City Manager may, when in their judgment, the welfare of the City requires it, call an emergency meeting of the City Commission, and when so called,

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shall state by message in writing the object or objects for which the meeting shall be convened, and the business of such meetings shall be restricted to the object or objects so stated.

- (b) *Rules and journal.* The Commission shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.
- (c) *Voting.* Voting, except on procedural motions, shall be by voice vote and the ayes and nays shall be recorded in the journal. Three (3) members of the Commission shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Commission. Unless otherwise specified to the contrary, no action of the Commission shall be valid or binding unless adopted by three (3) affirmative votes.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—Ord. No. 795, § 3(Exh. A), adopted November 28, 2016, repealed § 2.08 and renumbered § 2.10 as a new § 2.08. Former § 2.08 pertained to investigations and derived from Ord. No. 638, adopted July 28, 2008.

### **Section 2.09. Action requiring an ordinance.**

In addition to other acts required by law, or acts which are specifically provided by this Charter to be governed by ordinance, the following acts of the Commission shall be by ordinance which:

- (a) Adopt or amend an administrative code or establish, alter or abolish any City department, office or agency;
- (b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
- (c) Levy taxes, except as otherwise provided in Article VI, Financial Procedures, with respect to the property tax levied by adoption of the budget;
- (d) Grant, review or extend a franchise;
- (e) Regulate, set or change a rate charged for its services by a public utility;
- (f) Authorize the borrowing of money;
- (g) Convey or lease or authorize the conveyance or lease of any lands of the City;
- (h) Adopt with or without amendment ordinances proposed under the initiative power;
- (i) Amend or repeal any ordinance previously adopted, except as otherwise provided in Article VIII with respect to repeal of ordinances reconsidered under the referendum power; and
- (j) Regulate land use and development.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—Ord. No. 795, § 3(Exh. A), adopted November 28, 2016, repealed § 2.09 and renumbered § 2.11 as a new § 2.09. Former § 2.09 pertained to independent audits and derived from Ord. No. 638, adopted July 28, 2008.

### **Section 2.10. Ordinances in general.**

- (a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting

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clause shall read "BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAVENPORT." Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics.

- (b) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of thirty (30) days after adoption or at any other date as specified therein.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—Ord. No. 795, § 3(Exh. A), adopted November 28, 2016, renumbered §§ 2.12—2.15 as §§ 2.10—2.13.

### **Section 2.11. Emergency ordinances.**

To meet a public emergency affecting life, health, property of the public peace, the Commission may adopt one or more emergency ordinances, upon one reading, but such ordinance may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in section 6.08(b), Emergency Appropriations. An emergency ordinance shall be introduced in a form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least two-thirds ( $\frac{2}{3}$ ) of the Commission Members present shall be required for adoption. The ordinance shall become effective upon adoption or at such later time as specified therein. Every emergency ordinance, except one adopted pursuant to section 6.08(b), Emergency Appropriations, shall automatically stand repealed as of the 61<sup>st</sup> day following the date on which the ordinance was adopted, but this shall not prevent re-enactment of the emergency ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—See editor's note, § 2.10.

### **Section 2.12. Codes of technical regulations.**

The Commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (a) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the Clerk pursuant to section 2.13(a), *Authentication and Recording*.
- (b) Copies of any adopted code of technical regulations shall be made available by the Clerk for distribution or for purchase at a reasonable price.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—See editor's note, § 2.10.

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### **Section 2.13. Authentication and recording; codification; printing of ordinances and resolutions.**

- (a) *Authentication and Recording.* The Clerk shall authenticate by signing and shall record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Commission.
- (b) *Codification.* Upon adoption of this Charter and at least annually thereafter, the Commission shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Commission by ordinance and shall be published, together with this Charter and any amendments thereto, pertinent provisions of the constitution and other laws of the State of Florida, and such codes of technical regulations and other rules and regulations as the Commission may specify. This compilation shall be known and cited officially as the Davenport City Code. Copies of the Code shall be furnished to city officers, placed in libraries, public offices, and, if available, in a web site for free public reference and made available for purchase by the public at a reasonable price fixed by the Commission by a duly adopted ordinance, as amended from time to time.
- (c) *Printing of Ordinances and Resolutions.* The Commission shall cause each ordinance and resolution having the force and effect of law and each amendment of this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices as fixed by the Commission by a duly adopted ordinance, as amended from time to time. Following publication of the first Davenport City Code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Commission shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or additions to the provisions of the constitution and other laws of the State of Florida, or the codes of technical regulations and other rules and regulations included in the Code.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—See editor's note, § 2.10.

## **ARTICLE III. CITY MANAGER**

### **Section 3.01. Appointment, compensation, qualifications and removal.**

There shall be a City Manager, who shall be the chief administrative officer of the City. He or she shall be responsible to the Commission for the administration of all City affairs placed in his or her charge pursuant to this Charter. The Manager shall serve at the pleasure of the Commission.

- (a) *Appointment.* The Commission shall appoint a Manager for an indefinite term. The Manager need not be a resident of the State of Florida at the time of his or her appointment. However, within sixty (60) days of the appointment, the Manager shall become a resident of Polk County, Florida. Further, unless otherwise approved by the Commission, the Manager shall reside within the city limits of Davenport within eighteen (18) months of his or her appointment as Manager.
- (b) *Compensation.* The Manager's compensation shall be determined by the Commission.
- (c) *Qualifications.* The Manager shall be appointed on the basis of his or her executive and administrative qualifications. A minimum of a Bachelor's degree or the equivalent of accumulated, qualified work experience is a prerequisite to appointment.
- (d) *Removal.* The Commission may remove the Manager by a simple majority vote of the full Commission.

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(Ord. No. 638, § 3, 7-28-08; Ord. No. 740, § 5, 1-28-13; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 3.02. Acting City Manager.**

- (a) By letter filed with the Clerk, the Manager shall designate a qualified Officer or Department Head to exercise the powers and perform the duties of Manager during his or her temporary absence or disability. During such absence or disability, the Commission may revoke such designation at any time and appoint another Officer or Department Head to serve until the Manager returns or his or her disability ends.
- (b) In the event that, by reason of death, sickness, resignation, absence or discharge of the Manager, the office of Manager shall be temporarily vacant, then the Commission shall appoint an Acting Manager to act pending the filling of the vacancy, and such Acting Manager shall have temporarily the powers hereby vested in a Manager for a period of sixty (60) days. The initial sixty (60) day vacancy may be renewable for two (2) additional sixty (60) day periods, but not to exceed one hundred eighty (180) days.

(Ord. No. 638, § 3, 7-28-08)

### **Section 3.03. Powers and duties of the City Manager.**

The Manager shall be the chief administrative officer of the City, responsible to the Commission for the management of all City affairs pursuant to this Charter. The Manager shall:

- (a) Appoint and suspend and/or remove all City employees and Department Heads provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. The Manager may authorize any Department Head, subject to the Manager's direction and supervision, to exercise these powers with respect to subordinates in that department or agency;
- (b) Direct and supervise the administration of all departments and agencies of the City, except as otherwise provided by this Charter or by law;
- (c) Attend all Commission meetings. The Manager shall have the right to take part in discussion but shall not vote;
- (d) See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by the Manager or by employees subject to the Manager's direction and supervision, are faithfully executed;
- (e) Prepare and submit the annual budget and capital program to the Commission, and implement the final budget approved by the Commission to achieve the goals of the City;
- (f) Submit to the Commission and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (g) Make such other reports as the Commission may require;
- (h) Keep the Commission fully advised as to the financial condition and future needs of the City;
- (i) Make recommendations to the Commission concerning the affairs of the City and facilitate the work of the Commission in developing policy;
- (j) Provide staff support services for the Mayor and Commissioners;
- (k) Assist the Commission to develop long term goals for the City and strategies to implement these goals;
- (l) Encourage and provide staff support for regional and intergovernmental cooperation;

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- (m) Promote partnerships among the Commission, staff, and citizens in developing public policy and in building a sense of community through encouraging citizen participation; and
  - (n) Perform such other duties as are specified in this Charter or may be required by the Commission.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

## **ARTICLE IV. CITY CLERK**

### **Section 4.01. Appointment, compensation, qualifications and removal.**

- (a) *Appointment.* There shall be a City Clerk appointed by the Commission. The Clerk shall be responsible to the Commission for the administration of all duties placed in his or her charge pursuant to this Charter.
- (b) *Compensation.* The Clerk's compensation shall be determined by the Commission.
- (c) *Qualifications.* The Clerk shall be appointed on the basis of his or her administrative qualifications. A minimum of a Bachelor's degree or the equivalent of accumulated, qualified work experience is a prerequisite to appointment.
- (d) *Removal.* The Commission may remove the Clerk by a simple majority vote of the full Commission.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 4.02. Powers and duties of the Clerk.**

- (a) The Clerk shall be the chief official of the City responsible for the custody of the seal of the City and of all records pertaining to the affairs of the municipality. The Clerk shall have the power to administer oaths and to certify, under the seal of the City, true copies of all minutes, journal entries and other records of the City. The Clerk shall perform such other duties as may be required by the general laws of the State of Florida, by ordinance or resolution of the Commission, or with this Charter or any ordinance or resolution passed by the Commission. The Clerk shall:
  1. Hire, terminate, discipline and promote all City employees working under the direction and control of the City Clerk;
  2. Direct and supervise the administration of the Office of the City Clerk;
  3. Attend Commission meetings and work sessions, transcribe minutes and perform authorized actions as directed;
  4. Answer telephone, correspondence and citizen inquiries regarding City records and ordinances;
  5. Prepare agendas for the Commission, the various boards and committees, and prepare proclamations, certificates, legal notices and advertisements;
  6. Serve as the secretary to the various boards and committees as prescribed by the Commission;
  7. Assist with each budget, prepare legal advertisements and attend all work sessions;
  8. Serve as a notary public on behalf of the City;
  9. Prepare correspondence as required by his or her office and the Commission;
  10. Attend all staff meetings;
  11. Maintain the City directory of all boards, committees, supervisors and the Commission;

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12. Serve as the chief election's official for the City and perform all other duties as required.

- (b) In the event that, by reason of death, sickness, resignation, absence or discharge of the Clerk, the office of the Clerk shall be temporarily vacant, then the Commission shall appoint an Acting Clerk to act pending the filling of the vacancy, and such Acting Clerk shall have temporarily the powers hereby vested in the Clerk for a period of sixty (60) days. The initial sixty (60) day vacancy may be renewable for two (2) additional sixty (60) day periods, but not to exceed one hundred eighty (180) days.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

## ARTICLE V. ADMINISTRATIVE DEPARTMENTS

### Section 5.01. General provisions.

- (a) *Creation of departments.* The Commission may establish city departments, offices and agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies. However, no function assigned by this Charter to a particular department, office or agency may be discontinued unless this Charter so provides.
- (b) *Direction by Manager.* All departments, offices and agencies under the direction and supervision of the Manager shall be administered by a Department Head appointed by and subject to the direction and supervision of the Manager. With the consent of the Commission, the Manager may serve as the head of one or more such departments, offices or agencies.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### Section 5.02. Personnel system.

- (a) *Merit principle.* All appointments and promotions of the City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence and competence.
- (b) *Bonding of employees.* The Commission shall bond any and all employees that have a fiduciary duty and responsibility to the City as well as all other employees as the Commission deems necessary from time to time. The actual employment positions, and the names of employees, the bond amounts and the governing rules of procedure shall be prescribed by the Commission in a duly adopted ordinance or resolution, which may be amended from time to time to reflect any changes in employee status or to make any other additions or deletions as the Commission deems necessary.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### Section 5.03. City Attorney.

The Attorney, who shall be licensed by, and in good standing with the Florida Bar, shall represent the City in all legal proceedings and shall perform any other duties prescribed by this Charter or by ordinance. The Commission shall appoint a City Attorney who shall not be an elective officer of the City, who shall hold office at the pleasure of the Commission and who shall act as the legal advisor to, and attorney and counselor for the municipality and all its officers, in matters relating to their official duties. He or she shall prepare contracts, bonds, notes and other instruments in writing in which the municipality is concerned and shall endorse on each his or her approval or disapproval of the form and correctness thereof. He or she shall prosecute and defend for and on behalf of the City, all complaints, suits and controversies in which the City is a party. He or she shall furnish the City Commission, the City Manager, and any board or committee, his or her opinion on any question of law relating to

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their respective powers and duties. The City Attorney may appoint an assistant or assistants subject to confirmation by the Commission.

In addition to the foregoing duties, he or she shall perform such other professional duties as may be required of him or her by ordinance or resolution of the Commission, or as are prescribed for City Attorneys under the general law of the state, which are not inconsistent with this Charter, or with any ordinance or resolution which may be passed by the Commission.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

## **ARTICLE VI. FINANCIAL PROCEDURES**

### **Section 6.01. Fiscal year.**

The fiscal year of the City shall begin on the first day of October and end on the last day of September.

(Ord. No. 638, § 3, 7-28-08)

### **Section 6.02. Submission of budget and budget message.**

On or before the 1<sup>st</sup> day of August of each year, the Manager shall submit to the Commission a budget for the ensuing fiscal year along with a budget message.

(Ord. No. 638, § 3, 7-28-08)

### **Section 6.03. Budget message.**

The Manager's message shall explain the budget both in fiscal terms and in terms of work programs. The budget message shall outline the proposed financial policies of the City for the ensuing fiscal year. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures and revenues together with the reasons for such changes. It shall also summarize the City debt position and include any such other material or information as is necessary.

(Ord. No. 638, § 3, 7-28-08)

### **Section 6.04. 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 Manager deems desirable or the Commission may require for effective management and an understanding of the relationship between the budget and the City's strategic goals. The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service for the ensuing year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure; and

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- (c) Anticipated net surplus or deficit for ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information which shall be attached as appendices to the budget.

To facilitate and to ensure a balanced budget pursuant to state law, the total of proposed expenditures shall not exceed the total of estimated income.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 6.05. Capital program.**

- (a) *Submissions to the Commission.* The Manager shall prepare and submit to the Commission a five-year capital program at the same time the Commission receives the annual budget and message.
- (b) *Contents.* The capital program shall include:
  1. A clear general summary of its contents;
  2. Identification of the long-term goals of the City;
  3. A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
  4. Cost estimates, method of financing and recommended time schedules for each such improvements;
  5. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.
  6. A commentary on how the plan addresses the sustainability of the City and the region of which it is a part; and
  7. Methods to measure outcomes and performance of the capital plan related to the long-term goals of the City.

The above information may be reviewed and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 6.06. Commission action on budget and capital program.**

The annual budget and capital program of the City shall be adopted, by ordinance, according to the procedures and schedule mandated by state law.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 6.07. Public records.**

Copies of the budget and the capital program are public records and shall be made available to the public at City Hall.

(Ord. No. 638, § 3, 7-28-08)

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## Section 6.08. Budget amendments.

- (a) *Supplemental appropriations.* If, during the fiscal year, the Manager certifies that there are available for appropriation, revenues in excess of those estimated in the budget, the Commission, by ordinance, may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Emergency appropriations.* To meet a public emergency affecting life, health, property or the public peace, the Commission may make an emergency appropriation. Such appropriations may be made by emergency ordinance in accordance with the provisions of section 2.11, *Emergency ordinances*. To the extent that there are no available unappropriated revenues to meet such appropriations, the Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, the Manager shall report to the Commission without delay, indicating the estimated amount of the deficit, any remedial action taken by the Manager, and recommendations as to any other steps to be taken. The Commission shall then take such further action as necessary to prevent or minimize any deficit, and for that purpose, may, by ordinance, reduce one or more appropriations.
- (d) *Transfer of appropriations.* At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a Department, office or agency and, upon written request by the Manager, the Commission may, by ordinance, transfer part or all of any unencumbered appropriation balance from one Department, office or agency to another.
- (e) *Limitation; 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.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

## Section 6.09. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

(Ord. No. 638, § 3, 7-28-08)

## Section 6.10. The Commission's five year vision plan.

- (a) *The State of the City Address.* Each year the Mayor shall give a State of the City Address to inform the citizenry of the current state of affairs and goals of the City for the next five years.
- (b) *Time of Address.* Each annual vision plan Address shall be held in January. The specific date and time for the Address shall be set by the Commission.

(Ord. No. 638, § 3, 7-28-08)

## ARTICLE VII. NOMINATIONS AND ELECTIONS

### Section 7.01. City elections.

- (a) *Regular elections.* The regular City election shall be held on the first (1<sup>st</sup>) Tuesday in April.
- (b) *Conduct of elections.* Except as otherwise provided by this Charter, the provisions of the general election laws of the State of Florida shall apply to elections held under this Charter. All elections provided for by the Charter shall be conducted by the election authorities established by law. For the conduct of City elections, for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud, the Commission shall adopt by ordinance all regulations which it considers desirable, consistent with law and this Charter.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### Section 7.02. Nominations.

- (a) *Sponsors.* Any registered voter who has been a resident of the City for twelve (12) months may be nominated for Commission Member by a petition of five (5) registered voters, who shall be designated as the Commission Member's sponsors. No registered voter shall sign more than one (1) petition for the office of a Commission Member for each seat and, if a voter signs more than one, their signature shall be void except as to the first filed of the petitions signed by them or the office concerned. The signatures shall be executed in ink and each signer shall indicate next to their signature the date of their signing and the place of their residence, giving the street and number or other description sufficient to identify the signature. The signed petition shall be filed with the Clerk any time after 12:00 p.m. (Noon) of the fiftieth (50<sup>th</sup>) day prior to the election, but not later than 12:00 p.m. (Noon) of the forty-sixth (46<sup>th</sup>) day prior to the election. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.
- (b) *Procedure after filing.* Within five (5) days after the filing of a nominating petition, the Clerk shall notify the candidate and the person who filed the petition whether or not the petition satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is insufficient. Within the regular time for filing petitions, a new petition may be filed for the same candidate. The Clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.
- (c) *Compliance with election laws.* Pursuant to applicable law, the Clerk shall disperse to the potential candidate all required procedural forms and documents applicable to the election and qualification for office.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### Section 7.03. Ballots for ordinances and charter amendments.

An ordinance or Charter amendment to be voted by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" from which the voter may cast their vote.

(Ord. No. 638, § 3, 7-28-08)

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#### **Section 7.04. Voting machines.**

The Commission may provide for the use of mechanical or other devices for voting or counting the votes consistent with law.

(Ord. No. 638, § 3, 7-28-08)

#### **Section 7.05. Availability list of registered voters.**

Any person or entity desiring a list of registered voters of the City, need simply request said list from the Clerk. Once requested, any and all non-exempt documentation relevant to the request shall be released to the person or entity pursuant to Chapter 119, Florida Statutes.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **ARTICLE VIII. RECALL, INITIATIVE AND REFERENDUM**

#### **Section 8.01. General authority.**

- (a) *Recall.* The registered voters of the City shall have the power to recall elected officials pursuant to Section 100.361, Florida Statutes, as amended from time to time.
- (b) *Initiative.* The registered voters of the City shall have the power to propose ordinances to the Commission provided that such ordinances do not extend to the budget, or capital programs, or any ordinance relating to the appropriation of money, the levy of taxes or to the salaries of city officers or employees. If the proposed ordinance is not adopted, or if the ordinance is adopted with any material change in provisions, then the registered voters of the City may seek a referendum so that the ordinance as originally drafted may be adopted or rejected at a City election.
- (c) *Referendum.* Registered voters of the City shall have the power to require reconsideration by the Commission of any adopted ordinance. If the Commission fails to reconsider, reject or amend such ordinance specified by said registered voters, a referendum may be pursued by the registered voters to take desired action following the procedures outlined in Section 8.02(e), *Action on Petitions*. The registered voters of the City may not seek the reconsideration of any ordinance that extends or otherwise relates to the budget, to the capital program, or to any emergency ordinance or ordinances relating to the appropriation of money, the levy of taxes or to the salaries of City officers or employees.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

#### **Section 8.02. Procedures pertaining to initiative and referendum.**

- (a) *Commencement of Proceedings; Petitioners Committee; Affidavit.* Any five (5) registered voters may commence proceedings by filing an affidavit with the Clerk stating they will constitute the Petitioner's Committee. They shall be responsible for circulating the petition and filing the petition in proper form. The affidavit shall contain their names, addresses, and shall specify the address to which all notices to the Committee shall be sent. The affidavit shall also set out in full the proposed initiative ordinance or shall cite the ordinance sought to be reconsidered. After the affidavit of the Petitioner's Committee is filed, the Clerk shall promptly issue the petition forms to the Petitioner's Committee.
- (b) *Petitions.*

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1. *Number of signatures.* Initiative and referendum petitions must be signed by at least ten percent (10%) of the registered voters of the City registered to vote at the last regular City 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. Throughout their circulation, petitions shall contain or have attached thereto the full text of the ordinance proposed or sought to be reconsidered.
  3. *Affidavit of circulator.* Each page of the filed petition shall contain an affidavit executed by the circulator attesting that:
    - a. The circulator personally circulated each page of the petition; and
    - b. All signatures were accounted for and the final number was placed thereon; and
    - c. Each and every signature was affixed to the petition in the circulator's presence; and
    - d. The circulator believes each signature to be the genuine signature of the person who signed the petition; and
    - e. Before execution, each signor had the opportunity to read the full text of the ordinance proposed or the ordinance sought to be reconsidered.
  4. *Time for filing referendum petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the Commission of the ordinance sought to be reconsidered. Upon filing of a petition, the Clerk shall immediately provide due notification to all affected parties and City Officials.

(c) *Procedure after filing.*

1. *Certificate of clerk; amendment.* Within twenty (20) calendar days after the initiative petition is filed, the 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 petitioner's committee by certified mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioner's committee files a notice of intention with the Commission within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Within twenty (20) days after the supplementary petition is filed, the Clerk shall complete a certificate as to the sufficiency of the supplementary petition, as amended, and promptly send a copy of such certificate to the petitioner's committee by certified mail.
2. *Insufficiency or Abandonment of Petition.* If a petition or amended petition is certified insufficient or if the petitioner's committee does not elect to amend or request Commission review under subsection (3) of this Section within the time required, the Clerk shall promptly present the certificate to the Commission and the certificate shall be a final determination as to the insufficiency of the petition.
3. *Commission review.* If a petition has been certified insufficient and the petitioners committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Commission. The Commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition.
4. *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.

- (d) *Referendum petitions; suspension of effect of ordinance.* When a referendum petition is filed with the Clerk, the Ordinance to be reconsidered shall be suspended in taking effect from its inception. The City Clerk shall

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immediately provide due notification to all affected parties and City Officials. Such suspension shall terminate when:

1. There is a final determination of insufficiency of the petition; or
2. The petitioner's committee withdraws the petition; or
3. The Commission repeals the Ordinance; or
4. The results of the vote have been certified.

(e) *Action on petitions.*

1. *Action by the Commission.* When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance in the manner provided in Section 2.10, *Ordinances in general*, Ordinances in General, 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 after the date the petition was finally determined sufficient, they 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 no less than thirty (30) days and not later than one year from the date of the final 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 referendum petition may be withdrawn at any time prior to the fifteenth (15<sup>th</sup>) day preceding the day scheduled for a vote of the City by filing with the Clerk a request for withdrawal signed by at least four (4) members of the petitioner's committee. Upon the filing of such request, the petition shall have no further force or effect, and all proceedings shall be terminated.

(f) *Results of election.*

1. *Initiative.* If a majority of the registered electors vote in favor of a proposed initiative ordinance, the ordinance shall be considered adopted upon certification of the election results, and shall be treated in all respects as general ordinances adopted by the Commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail.
2. *Referendum.* If a majority of the registered voters on a referred ordinance vote against the ordinance, it shall be considered repealed upon certification of the election results.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

## ARTICLE IX. MISCELLANEOUS PROVISIONS

### Section 9.01. Code of ethics for public officers and employees.

The Commission shall, upon adoption of this Charter, enact by ordinance a code of ethics for all elected and appointed officers and employees of the City which shall set standards of conduct equal to or more stringent than the standards of conduct established by law. All pertinent state law provisions are hereby adopted by reference

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including but not limited to the code of ethics for public officers and employees set forth in Section 112.311, Florida Statutes, et seq.

(Ord. No. 638, § 3, 7-28-08)

### **Section 9.02. Charter amendments.**

(a) *Proposed Amendments.* Any amendments to this Charter may be framed and proposed:

1. In the manner provided by law, or
2. By the Commission's adoption of an ordinance containing the full text of the proposed amendment and the subsequent placement of the amendment on the ballot for the next general City election or a special election called for such purpose.
3. By the voters of the City, or
4. By a Charter Committee report adopted by Ordinance.

Proposal of an amendment by the voters of the City shall be by petition containing the full text of the proposed amendment or amendments, and shall be governed by the same procedures and requirements prescribed in Article VIII, Recall, Initiative and Referendum, for initiative petitions until such time as a final determination as to the sufficiency of the petition is made, except that there shall be no limitation as to the subject matter and that the petition must be signed by qualified voters of the City equal in number to at least ten (10%) percent of the total number of qualified voters registered to vote at the last regular City election. The petitioner's committee may withdraw the petition at any time before the fifteenth (15<sup>th</sup>) day immediately preceding the day scheduled for the City vote on the amendment.

(b) *Election.* Upon delivery to the Clerk of:

1. The report of a Charter Committee; or
2. An adopted ordinance or sufficiently determined petition which proposes an amendment pursuant to subsection (a) above, the Clerk shall submit the proposed amendment to the voters of the City at an election. Such election shall be announced by a notice containing the complete text of the proposed amendment and published in one or more newspapers of general circulation in the City at least thirty (30) days prior to the date of the election. The election shall not be held less than sixty (60) days and not more than one hundred twenty (120) days after the sufficiency of the petition proposing the amendment. If no regular election is to be held within that period, the Commission shall provide for a special election on the proposed amendment; otherwise, the holding of a special election shall be within the discretion of the Commission. The form of the ballot shall be as specified in Section 7.03, Ballots for Ordinances and Charter Amendments.

(c) *Adoption of amendment.* If the majority of the registered voters of the City voting upon a proposed Charter amendment vote in favor of it, the amendment shall become effective at the time fixed in the amendment. If a time is not fixed, the proposed amendment will take effect thirty (30) days after its adoption by the voters.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16)

### **Section 9.03. Charter Revisions, Update and Maintenance.**

Pursuant to the effective date of the current Charter, and for the purpose of ensuring the Charter's continued and optimum workability and application, the Commission shall, at least once every seven (7) years, appoint a Charter Review Committee to conduct a comprehensive review of this Charter for the purpose of

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recommending any changes, deletions or additions for the municipal voters to subsequently approve or disapprove in a referendum election.

(Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—Ord. No. 795, § 3(Exh. A), adopted November 28, 2016, renumbered §§ 9.03 and 9.04 as 9.04 and 9.05.

#### **Section 9.04. Severability.**

In the event any provisions of this Charter are held to be invalid or unenforceable for any reason the invalidity or unenforceability thereof shall not affect the remainder of the Charter which shall remain in full force and effect and enforceable in accordance with its terms, conditions, and provisions.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16; Ord. No. 1377, §10)

Editor's note(s)—See editor's note, § 9.03.

## **ARTICLE X. TRANSITIONAL PROVISIONS**

#### **Section 10.01. Transition schedule.**

- (a) *Recreation of Seat No. 4, and Elimination of Seat No. 5.* As hereinafter set forth, Commission Seat No. 5 is eliminated. The Commission shall be comprised of the Mayor and four (4) Commissioners designated in Seats No. 1, 2, 3 and 4. To promote clarification and to achieve sequential order, Seat No. 5 will become recognized and shall be renumbered as Seat No. 4 immediately following the 2017 election and certification of said seat.
- (b) *Schedule of Initial and Subsequent Elections.* In 2017, the first election under this Charter shall be held for the mayor and Commission Seat No. 4. The Mayor and Commission Seat No. 4 shall be elected and serve a three (3) year term. Term limit provisions for these seats, as specified in Section 2.01(c), *Election, terms and term limits*, shall commence and be effective beginning with the 2017 election.

In 2017, the first election under this Charter shall be held for Commission Seat No. 3. Commission Seat No. 3 will be elected and shall serve a two (2) year term. In 2019, Commission Seat No. 3 shall be elected to serve a three (3) year term. Term limit provisions for this seat, as specified in Section 2.01(c), *Election, terms and term limits*, shall commence and be effective beginning with the 2019 election.

In 2018, an election shall be held for Commission Seats No. 1 and 2. The successful candidate for each seat shall begin and serve the term of three (3) years. Term limit provisions for these seats, as specified in Section 2.01(c), *Election, terms and term limits*, shall commence and be effective beginning with the 2018 election.

There shall be an election for Commission Seat No. 3 in the year 2019. In the year 2019 and all successive years thereafter, all elections and the terms of said elections shall proceed pursuant to the provisions of Section 2.01(c), *Election, terms and term limits*.

- (c) *Charter Effective Time.* This Charter shall take effect May 1, 2025 at 12:01 a.m., E.S.T.

(Ord. No. 638, § 3, 7-28-08; Ord. No. 795, § 3(Exh. A), 11-28-16; Ord. No. 1377, § 15, 4-01-25)

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### **Section 10.02. Officers and employees.**

- (a) *Rights and privileges preserved.* At the time of its adoption, nothing in this Charter shall affect or impair the rights or privileges of officers or employees, except as otherwise specifically provided.
- (b) *Continuance of office or employment.* If an officer or employee holds any office or position which is abolished by this Charter, he or she shall continue in the office or position until the Charter takes effect, unless there is some specific provision within this Charter directing he or she vacate the office or position.
- (c) *Personnel system.* An employee holding a city position at the time this Charter takes effect, who was serving in that same or a comparable position at the time of its adoption, shall not be subject to competitive tests as a condition of continuance in the same position, but is subject to the personnel system provided for in Section 5.02, Personnel System.

(Ord. No. 638, § 3, 7-28-08)

### **Section 10.03. Departments, offices and agencies.**

- (a) *Transfer of powers.* If a department, office or agency is abolished by this Charter, the powers and duties given to it by law shall be transferred to the department, office or agency designated in this Charter. If the Charter does not specify any provisions, then the department, office or agency shall be governed by those provisions as designated by the City Commission.
- (b) *Property and records.* When this Charter takes effect, all property, records and equipment of any department, office or agency shall remain in the possession of the particular entity. However, in the event that the powers and duties of any department, office or agency has changed, then the corresponding property, records and equipment of said entity shall be transferred to one or more departments, offices or agencies as determined by the Commission.

(Ord. No. 638, § 3, 7-28-08)

### **Section 10.04. Pending matters.**

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter, and in each case, shall be maintained, carried on or dealt with by the department, office or agency appropriate under this Charter.

(Ord. No. 638, § 3, 7-28-08)

### **Section 10.05. Ordinances preserved.**

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

(Ord. No. 795, § 3(Exh. A), 11-28-16)

Editor's note(s)—Ord. No. 795, § 3(Exh. A), adopted November 28, 2016, repealed § 10.05 and renumbered § 10.06 as a new § 10.05. Former § 10.05 pertained to merger of former charter divisions and derived from Ord. No. 638, adopted July 28, 2008.