

ORDINANCE 2011-01
[as approved by electors of City of Lake Wales, 4/5/2011]

AN ORDINANCE AMENDING THE LAKE WALES CHARTER IN ONE OR MORE OF THE FOLLOWING MANNERS: BY REQUIRING A SUPER MAJORITY VOTE OF THE COMMISSION TO REVISE OR REPEAL AN ETHICS POLICY ORDINANCE; BY REVISING THE COMPENSATION, ELECTION, FUNCTIONS AND POWERS OF THE MAYOR; BY REVISING THE PROCEDURE FOR FILLING A VACANCY ON THE COMMISSION; BY REVISING THE NUMBER OF VOTES REQUIRED FOR APPROVING MATTERS CONSIDERED BY THE COMMISSION; BY DELETING PROCEDURES FOR INITIATIVE AND REFERENDUM; BY REVISING PROCEDURES FOR REMOVAL OF A CITY MANAGER; BY REVISING METHOD FOR DESIGNATING AN ACTING CITY MANAGER; BY DELETING REFERENCE TO A DATE FOR HOLDING A MUNICIPAL ELECTION; BY REVISING RESIDENCY QUALIFICATION FOR ELECTION TO COMMISSION SEAT NUMBER ONE; BY DELETING PROCEDURES IN CONFLICT WITH FLORIDA STATUTE 101.048 FOR CANVASS OF ELECTION RETURNS; BY ESTABLISHING THAT THERE SHALL BE FOUR GEOGRAPHICAL CITY COMMISSION DISTRICTS CONTAINING POPULATION THAT IS AS EQUAL AS FEASIBLE; BY AUTHORIZING NON-SUBSTANTIVE CLERICAL CHANGES TO THE CHARTER BY RESOLUTION OF THE COMMISSION FOR THE PURPOSE OF CORRECTING LANGUAGE THAT HAS BECOME OBSOLETE, INAPPROPRIATE OR NOT CONFORMING TO COMMONLY ACCEPTED USAGE; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN ELECTION IN WHICH QUALIFIED ELECTORS OF THE CITY MAY VOTE FOR OR AGAINST THESE CHARTER AMENDMENTS; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1. The Charter of the City of Lake Wales is amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 1.01. Incorporation.

The inhabitants of the City of Lake Wales, Florida, as its limits now or as the same may be hereafter established shall continue to be a body politic under the municipal corporate name of Lake Wales, and as such shall have perpetual succession.

Sec. 1.02. General powers.

The city commission of the City of Lake Wales, as the governing body pursuant to the provisions of Article VIII, Section 2(b) of the State Constitution and the provisions of the Municipal Home Rule Powers Act, Chapter 73-129, Laws of Florida, has the power to enact any legislation concerning any subject matter upon which the state legislature may act except when expressly prohibited by law and shall have the governmental corporate and proprietary powers to enable it to conduct municipal functions and render municipal services and exercise any powers for municipal purposes as provided by law except where expressly prohibited by law.

Sec. 1.03. Ethics policy.

The city commission of the City of Lake Wales may, by ordinance, impose upon its officers, both elected and appointed, and its employees additional or more stringent standards of ethical conduct and disclosure requirements than currently exist by law, provided that those standards and requirements do not otherwise conflict with law or the provisions of the Charter. In the event such standards or requirements are adopted, the said standards or requirements may only be revised or repealed by a super majority vote of the city commission.

ARTICLE II. CORPORATE LIMITS

Sec. 2.01. Corporate limits.

The area of the corporate limits shall be as the municipal limits now are or as the same may be established hereafter in accordance with the Constitution and laws of Florida.

ARTICLE III. LEGISLATIVE

Sec. 3.01. City commission.

There shall be a city commission with all legislative powers of the city vested therein consisting of five (5) electors of the city, to be elected at large, who shall hold office and be elected as hereinafter provided; and providing, also, that those now holding office as commission members may hold office as such, subject to the provisions in this charter, for the term for which they were respectively elected. In all succeeding elections, commission members shall be elected for the terms as hereinafter provided.

Sec. 3.02. Qualifications of members.

Members of the city commission shall have been residents of the City of Lake Wales for not less than one year preceding their date of election. The office of any commission member who shall move from the City of Lake Wales during the term for which he the member was elected shall automatically become vacant from the date of such removal.

Sec. 3.03. Election and terms.

The regular election of the city commission members shall be held in accordance with Article VIII of this charter. The term for each city commission member elected after the effective date of this provision shall be for a term of four (4) years.

Sec. 3.04. Compensation.

The commission may determine the annual salary of commission members by ordinance. 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. *[Note: proposed amendment of sec. 3.04 not approved by electors.]*

Sec. 3.05 . Election of mayor.

~~The electors of the city shall annually at each regular municipal election elect a commission member to serve as mayor. Commission members holding seats not up for election shall be eligible as candidates and shall qualify as a candidate in accordance with the Municipal Election Code. The commission member receiving the highest number of votes cast shall serve as mayor. If no eligible commissioner qualifies as a candidate, the commission shall at its first meeting in October elect by majority vote one (1) of its members to be mayor of the city for the ensuing year.~~

(a) The voters of the City shall elect a mayor at large for a term of four years who shall be elected to commission seat one. The commission shall elect from among its members a deputy mayor who shall act as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become mayor for the remainder of the unexpired term. The vacancy created by the deputy mayor shall be filled in accordance with section 3.08(a).

(b) Any commissioner or other qualified elector of the city shall be entitled to run for mayor. Whether elected or not, a commissioner who runs for mayor shall lose his commission seat effective the day of election. A commissioner seeking to run for mayor, shall give notice of intent not less than

forty-five days prior to the first day of the qualifying period to allow time for notice of election, candidate qualification, and placement of the election on the ballot for the seat to be vacated, thereby eliminating the need for a special election. The candidate elected to fill the vacated seat shall serve for the remainder of the term.

Sec. 3.06. Functions and powers of mayor.

- (a) The mayor is expected to advance initiatives to benefit the community that can be tempered and improved upon with the city commission's collective judgment.
- (b) The mayor shall attend and preside at all meetings of the city commission and shall perform such other duties consistent with his office as may be imposed by it, and he shall have a voice and a vote in the proceedings of the commission, but no veto power.
- (c) ~~He~~ The mayor shall be recognized as the head of the city government for all ceremonial purposes, by the governor for purposes of military law, for service of process, and execution of contracts, deeds and other documents, but shall have no administrative duties except as required to carry out the responsibilities herein. The powers and duties of the mayor shall be such as are conferred upon him by the city commission in pursuance of the provisions of this charter, and no other. In the absence of the mayor, the other members of the city commission shall select one of their number to serve as vice mayor to perform his duties.
- (d) The mayor shall represent the city in all intergovernmental relationships, including but not limited to agreements with other governmental entities or certifications to other governmental entities.
- (e) The mayor shall, with the advice and consent of the city commission, make appointments to the various citizen advisory and regulatory boards, commissions, committees and authorities.
- (f) The mayor shall appoint members of the city commission to serve on other committees and boards including boards composed of members from other governmental jurisdictions.
- (g) The mayor shall take a leadership role in promoting the overall quality of life, appropriate economic development, enhancement of property values, and other areas important to the progress and well-being of the community.
- (h) The mayor shall serve as the liaison between the municipal government and the community's citizens, businesses, and civic organizations to collectively achieve projects that neither the City nor one organization could afford to achieve on its own.
- (i) The mayor shall present an annual state of the city message that informs the public about the city's current fiscal position, accomplishments in the prior year, work plan for the coming year, and goals for the future.
- (j) The mayor shall perform other duties specified by the city commission from time to time provided such duties are not inconsistent with this charter.
[Note: Adoption of amending language requires voter approval of amendment to section 3.05]

Sec. 3.07. Prohibitions.

- (a) *Appointment and removals.* Neither the commission nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or ~~any of his~~ the manager's subordinates are empowered to appoint, but the commission may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (b) *Interference with administration.* The commission and its members shall deal with the city

officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor any member thereof shall give orders to, nor make requests of, any of the subordinates of the city manager either publicly or privately. Any such dictation, order, requests, or other interferences upon the part of a member of the city commission with the administration of the city shall constitute grounds for recall of such commission member.

- (c) *Holding other office.* No former elected city official shall hold any compensated, appointive city office or employment until one year after the expiration of the term for which ~~he~~ that official was elected.

Sec. 3.08. Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of a commission member shall become vacant upon his the member's death, resignation, removal from office in any manner authorized by law, or forfeiture of his office, such forfeiture to be declared by the remaining members of the commission.
- (b) *Forfeiture of office.* A commission member shall forfeit his the office if ~~he lacks~~ at any time during his the term of office any qualifications for the office prescribed by this charter or by law are lacking.
- (c) *Filling of vacancies.* A vacancy of 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 all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the commission fails to do so within thirty (30) days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy, to be held not sooner than thirty (30) days and not later than ninety (90) days following the occurrence of the vacancy and to be otherwise governed by the provisions of Article VIII of this charter. Notwithstanding any quorum requirements established herein, if at any time the membership of the commission is reduced to less than a quorum, the remaining members may by majority vote, appoint additional members to raise the membership to a quorum. by majority vote of the remaining commission members. The interim commissioner shall serve until the seat is filled in the normal course by the electorate and the next elected commission member takes office.~~
- (d) *Extraordinary vacancies.* In the event that all members of the commission are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim commission that shall call a special election as provided in (c) above and such election shall be governed by the provisions of Article VIII of this charter.

Sec. 3.09. Procedure.

- (a) *Meetings of the commission members.* The commission shall meet regularly at least twice in every month at such times and places as the commission may prescribe by rule. The mayor, or any two ~~(2)~~ commissioners, or the city manager, may call special meetings of the commission upon no less than twelve ~~(12)~~ hours notice to each member and the public.
- (b) *Penalty for absence.* Absence from three (3) consecutive regular meetings of the city commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the fact of such excuse duly entered upon the minutes.
- (c) *Rules and minutes.* The commission shall determine its own rules and order of business.
- (d) *Voting.* Voting on ordinances and resolutions shall be by roll call vote on final action and shall

be reported in the minutes. A majority of the commission shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of at least three (3) members shall be necessary to ~~adopt any ordinance or resolution~~ approve all matters requiring a vote of the commission.

Sec. 3.10. Initiative and referendum.

~~(1) [Generally.]~~

~~(a) Initiative. The qualified voters of the city shall have power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital programs or any ordinances relating to appropriation of money, levy of taxes or salaries of city officers or employees.~~

~~(b) Referendum. The qualified voters of the city shall have power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.~~

~~(2) Commencement of proceedings. Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the city clerk or other official designated by the commission an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying 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.~~

~~(3) Petitions.~~

~~(a) Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least fifteen (15) percent of the total number of qualified voters registered to vote at the last regular city election.~~

~~(b) Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.~~

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

~~(d) Time for filing referendum petitions. Referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.~~

~~(4) Procedure for filing.~~

~~(a) Certificate of clerk; amendment. Within twenty (20) days after the initiative petition is filed and five (5) days for a referendum petition, the city clerk or other official designated by the~~

~~commission shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in subsection (3). A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk or other official designated by the commission within two (2) working days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (b) and (c) of section 3.10(3), and within five (5) days after it is filed the clerk or other official designated by the commission shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request commission review under subsection (b) of this section within the time required, the clerk or other official designated by the commission shall promptly present his certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition.~~

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

~~(5) *Referendum petition; suspension of effect of ordinance.* When a referendum petition is filed with the city clerk or other official designated by the commission, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:~~

- ~~(a) There is a final determination of insufficiency of the petition, or;~~
- ~~(b) The petitioners' committee withdraws the petition, or;~~
- ~~(c) The commission repeals the ordinance, or;~~
- ~~(d) A vote of the city on the ordinance has been certified.~~

~~(6) *Action on petitions.*~~

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

~~(b) *Submission to voters.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period described in this subsection, the commission shall provide for a special election, except that the commission may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.~~

~~(c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the commission a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.~~

~~(7) Results of election.~~

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

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

ARTICLE IV. CITY MANAGER

Sec. 4.01. Appointment of city manager; qualifications.

The commission members shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and ~~he~~ shall hold office at the pleasure of the city commission. ~~He~~ The city manager shall be chosen solely on the basis of ~~his~~ executive and administrative qualifications and ~~he~~ need not be a resident of the city or state at the time of ~~his~~ appointment. ~~He~~ The city manager shall receive a salary to be fixed by the city commission. No person who has served on the city commission shall be eligible for appointment to the office of city manager until two ~~(2)~~ years after ~~he has ceased to be a member of the commission membership on the commission has ended.~~

Sec. 4.02. Removal.

The commission may remove the manager from office in accordance with the following procedures:

- (1) The commission shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reason for removal and may suspend the manager from duty for a period not to exceed forty-five ~~(45)~~ days. A copy of the resolution shall be delivered promptly to the manager.
- (2) Within five ~~(5)~~ days after a copy of the resolution is delivered to the manager, ~~he~~ the manager may file with the commission a written request for a public hearing. This hearing shall be held at a commission meeting not earlier than fifteen ~~(15)~~ days nor later than thirty ~~(30)~~ days after the request is filed. The manager may file with the commission a written reply not later than five ~~(5)~~ days before the hearing.
- (3) The commission may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five ~~(5)~~ days from the date when a copy of the preliminary resolution was delivered to the manager, if ~~he~~ the manager has not requested a public hearing, or at any time after the public hearing if ~~he~~ one has been requested ~~one~~. The manager shall continue to receive ~~his~~ a salary until the effective date of the final resolution of removal. The action of the commission in suspending or removing the manager shall not be subject to review by any court or agency.

[Note: proposed amendment of sec. 4.02 not approved by electors.]

Sec. 4.03. Acting city manager.

By ~~letter filed with the city clerk the manager shall designate, subject to the approval of the commission~~ resolution adopted by the city commission, a qualified city administrative officer will be designated to exercise the powers and perform the duties of manager during his temporary absence or disability. ~~During such absence or disability, the commission may revoke such designation at any time and appoint another officer of the city to serve until the manager shall return or his disability shall~~

cease.

Sec. 4.04. Powers & duties of the city manager.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, ~~his~~ the powers of the city manager are and they shall be:

- (1) To appoint and fix salaries, and when ~~he deems~~ it is deemed necessary for the good of the city, suspend or remove all city employees and appointive administrative officers provided for by or under this charter, except as otherwise provided by law, this charter or personnel rules adopted pursuant to this charter. ~~He~~ The city manager may authorize any subordinate administrative officer ~~who is subject to his direction and supervision~~ to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (2) To exercise control and direct supervision over all departments and divisions of the municipal government under this charter, or which may hereinafter be created by the city commission, including public utilities owned by said city.
- (3) To see that all benefits inuring to the inhabitants of the city and any public utility franchise are received.
- (4) To attend all meetings of the city commission.
- (5) To recommend to the commission for adoption such measures as ~~he may deem~~ deemed necessary or expedient in the interest of the city.
- (6) To see that all laws, provisions of this charter, and acts of the commission, subject to enforcement by ~~him~~ the city manager or by officers subject to ~~his~~ the city manager's discretion and supervision, are faithfully executed.
- (7) To keep the city commission fully advised as to the financial condition and needs of the city and to submit for its consideration an annual budget and be responsible for its administration after adoption.
- (8) To execute contracts on behalf of the city pursuant to the provisions of appropriations ordinances.
- (9) To act as purchasing agent for the city, by whom all purchases of supplies and equipment shall be made. ~~He~~ The city manager shall approve all vouchers for the payment of same. In the capacity of purchasing agent ~~he~~ the city manager shall also conduct all sales of personal property which the commission may authorize to be sold as having become unnecessary or unfit for the city's use. All purchases and sales shall conform to such regulations as the city commission may from time to time prescribe.

ARTICLE V. ADMINISTRATIVE DEPARTMENTS

Sec. 5.01. General provisions.

(a) *Creation of departments.* The commission may establish municipal departments, offices or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this charter to a particular department, office or agency may be discontinued or, unless this charter specifically so provides, assigned to any other department, office, or agency.

(b) *Direction by manager.* All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of the commission, the manager may serve as head of one or more such departments, offices or agencies or appoint one person as head of two or more of them.

Sec. 5.02. Personnel system.

All appointments and promotions of municipal officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

Sec. 5.03. City clerk.

The commission shall appoint an officer of the city who shall have the title of city clerk, and who shall serve during the pleasure of the commission. The city clerk shall serve under the supervision of the city manager and shall give notice of commission meetings to its members and to the public, keep the minutes of its proceedings, and perform such other duties as are assigned to him by this charter or by the commission, or by the city manager.

Sec. 5.04. City attorney.

The city commission may employ an attorney or attorneys from time to time, or by the year, to perform such legal services as the commission may authorize and designate, and pay such attorney for services rendered.

ARTICLE VI. FINANCIAL PROCEDURES

Sec. 6.01. Fiscal year.

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

Sec. 6.02. Submission of budget and budget report.

On or before the first day of September of each year, the manager shall submit to the commission a budget for the ensuing fiscal year and an accompanying budget report.

Sec. 6.03. Budget report.

The manager's report shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenue together with the reasons for such changes, summarize the city's debt position and include such other material as the manager deems desirable.

Sec. 6.04. Budget.

The budget shall provide a complete financial plan of all municipal 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. The budget shall be compiled from detailed information and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional divisions and departments of the city and shall give in parallel columns the following information:

- (a) Proposed expenditures for current operations during the ensuing fiscal year for each department and division of the municipal government, including all public utilities and enterprises conducted by the municipality;
- (b) Expenditures for corresponding items during the two (2) fiscal years last past;
- (c) Proposed capital expenditures during the ensuing fiscal year for each department and division of the municipal government, including all public utilities and enterprises conducted

by the municipality;

- (d) Anticipated net surplus or deficit for the 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 shall be attached as appendices to the budget;
- (e) Increase of demands compared with the corresponding appropriation for the last fiscal year;
- (f) Such other information as is required by the city commission or as the city manager may deem it advisable to submit. The total of proposed expenditures shall not exceed the total of estimated income.

Sec. 6.05. Capital program.

(a) *Submission to commission.* The manager shall prepare and submit to the commission a five-year capital program at least three (3) months prior to the final date for submission of the budget.

(b) *Contents.* The capital program shall include:

- (1) A clear general summary of its content;
- (2) A list of all capital improvements which are proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) Cost estimates, method of financing, and recommended time schedules for such improvements; and

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

Sec. 6.06. Commission action on budget and capital program.

The city commission shall by ordinance adopt its annual budget and capital program.

Sec. 6.07. Amendments after adoption.

(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) *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, ~~he~~ the manager shall report to the commission without delay, indicating the estimated amount of the deficit, any remedial action taken ~~by him~~ and his recommendations as to any other steps to be taken.

(c) *Transfer of appropriations.* 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.

Sec. 6.08. 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 (3) years pass without any disbursement from or encumbrance of the appropriation.

ARTICLE VII. MUNICIPAL BORROWING, FINANCE, AND TAXATION

Sec. 7.01 Authority to borrow.

The commission shall have the authority to borrow money, contract loans, and issue bonds as defined by general law, from time to time to finance the undertaking of any capital or other project for the purposes permitted by the state Constitution, general law, and this charter and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds.

Sec. 7.02. Taxes and charges.

The commission shall have the authority to raise, by taxation and licenses authorized by the Constitution or general law, or by user charges or fees authorized by ordinance, amounts of money which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by ordinance not inconsistent with law.

ARTICLE VIII. CITY ELECTIONS

Sec. 8.01. City elections.

~~(a) *Regular elections.** The date for the annual regular municipal elections shall be on the date in which the state's first primary election is held in accordance with Florida Statutes ' 100.061. In the years in which a state first primary election is not held, the regular municipal election shall be held on the first Tuesday after the first Monday in September. In the event that a run-off election is necessary, it will be held four (4) weeks from the first election. For the purpose of transition, the term of each present city commission member, which would normally expire during the first city commission meeting in June, will expire during the first city commission meeting in October of the same year.~~

(a) *Date of elections.* The date of all city elections shall be established in accordance with Chapter 8, Lake Wales Code of Ordinances ("Lake Wales Municipal Election Code").

(b) *Qualified voters.* All citizens qualified by the Constitution and the laws of the State of Florida to vote in the city and who satisfy the requirements for registration prescribed by law shall be qualified voters of the city within the meaning of this charter.

(c) *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 municipal elections, for the prevention of fraud in such elections, and for the recount of ballots in cases of doubt or fraud, the commission may adopt by ordinance all regulations which it considers desirable, consistent with law and this charter, and the election authorities may adopt, and if they adopt shall publicize, further regulations consistent with law and this charter and the regulations of the commission.

Sec. 8.02. Nonpartisan elections.

All qualifications and elections for the office of municipal commission members shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee or any nomination petition or ballot.

Sec. 8.03. Commission seats.

Four candidates for the office of municipal commission members shall qualify for and be elected by seat numbers designated ~~two one (1)~~ through five ~~(5)~~ and shall be elected by the voters of the city

~~at large. One candidate shall qualify for and be elected to seat number one without regard to place of residence within the city limits and shall be elected by the voters of the city at large. Candidates shall be qualified electors of the city who qualify for election in accordance with Chapter 8, Elections. Lake Wales Code of Ordinances. and shall be elected by the voters of the city at large. At all general elections after September 16, 1986, each commission member shall be elected to serve for four (4) year terms. After September 2, 1997, eCommission terms shall be staggered so that at least one (1) commission member shall be elected term shall expire each year and no more than two (2) commission members shall be elected terms shall expire in the same year. In order to make a transition to a staggered election cycle, on September 7, 1999 the commission member for seat four (4) shall be elected to serve a term of three (3) years. In all subsequent elections, the commission member elected to hold seat four (4) shall serve a term of four (4) years. [Note: Adoption of amending language requires voter approval of amendment to section 8.10(a)]~~

Sec. 8.04. Qualifications and nominations.

Candidates for the office of municipal commission member shall qualify for the election in a procedure to be set by ordinance by the city commission.

Sec. 8.05. Form of ballots.

The commission shall prescribe the form of the ballot included in the method for listing candidates for regular municipal elections and any other city election. A charter amendment or ordinance to be voted on by the municipality 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 (amendment) (ordinance) be adopted?" Immediately below such question shall appear, in the following order, the words "For approval" and also the words "Against approval" ~~with sufficient blank space thereafter for placing of the symbol "X" to indicate the voter's choice or with a lever opposite "For approval" or "Against approval" if voting machines are used.~~

Sec. 8.06. Determination of election results.

(a) *Number of votes.* Every elector shall be entitled to vote for one candidate for each commission seat up for election. The candidate for each seat receiving the highest number of votes cast shall be declared elected.

(b) *Canvass of returns.* ~~The polls shall open at 7:00 a.m. and shall close at 7:00 p.m. by whatever time is officially used by the municipality. The result of the voting, when ascertained, shall be certified by return, signed by the clerk and a majority of the inspectors of election; a copy being delivered to the city clerk, who shall transmit such return to the city commission at its next regular or special meetings thereafter. The city commission shall begin the canvass of returns on or before noon of the day following the election and the result as shown by such return shall be by the commission declared as the result of the election. The city clerk shall not later than noon of the second day after the canvass of such election, furnish a certificate of election to each person shown to have been elected. The canvass of returns shall be conducted in accordance with F.S. 101.048. Results of the election shall be transmitted to the city commission at its next regular or special meeting and filed with the official records of the city.~~

Sec. 8.07. Term of office.

Commission members shall serve for four-year terms and shall take office at the first regular meeting in ~~October~~ the month following their election.

Sec. 8.08. Special election.

The city commission shall, by ordinance, prescribe the manner and method of holding special elections in the municipality which are not provided for by the terms of this charter, and shall in such

ordinance prescribe when and how such special election shall be called and held.

Sec. 8.09. Recall.

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

Sec. 8.10. Commission districts; adjustment of districts.

(a) There shall be four (4) ~~geographical~~ city commission districts ~~containing population that is as equal as feasible, composed of the geographical areas included in Polk County, Florida, voting precinct numbers 19, 122, 27 and 28. The number of commission seats authorized for each commission district shall be based upon the population within each district. The allocation of commission seats shall be specified in Chapter 8, Elections, Lake Wales Code of Ordinances. An increase in the total number of commission seats to be allocated shall require amendment of section 3.01 of this charter through vote of the qualified electors of the city at the next regularly scheduled commission election and, if approved, shall become effective immediately. In years in which a state election is held, the city will hold an election on the date upon which the general election is held to elect a member to a newly created commission seat. In any year in which a state election is not held, the commission will call a special election in accordance with section 8-18(c), Lake Wales Code of Ordinances.~~

(b) *Districing Commission.* Within one (1) year from the release of each decennial census, commencing with the 1980 census, the commission shall appoint a districing commission composed of not less than three (3) nor more than five (5) qualified voters, determined from the registration for the last statewide general election. The voters chosen shall not be employed by the city in any capacity.

(c) *Report; Specifications.* Within six (6) months after its appointment the districing commission shall file with the city clerk a report containing a recommended plan for adjustment of either the allocation of commission seats within each commission district or adjustment of the commission district boundaries to comply with the following specifications:

- (1) Each district shall be formed of compact, contiguous property, as nearly rectangular as possible, and its boundary lines shall follow the center lines of the streets.
- (2) Each commission seat assigned to the commission districts shall represent as nearly as possible the same number of citizens as determined from population data derived from the last decennial census. The area represented by each commission seat does not differ in population by more than ten (10) percent.

(d) *Procedure.* The procedure for the commission's consideration of the report shall be the same as for other ordinances. The commission shall adopt the ordinance at least ninety (90) days before the next regular municipal election.

(e) *Effect of Enactment.* The new commission districts, boundaries, and seat assignments as of the date of enactment, shall supersede previous commission districts, boundaries and seat assignments for all the purposes of the next regular municipal election, including nominations.

ARTICLE IX. GENERAL PROVISIONS

Sec. 9.01. Separability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or

circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

Sec. 9.02. Transition.

All provisions of Articles I through XV of the charter of the City of Lake Wales, being Chapter 29224, Laws of Florida, Special Acts 1953, and Chapter 57-1488, Laws of Florida, Special Acts 1957, not embraced herein which are not inconsistent with this amended charter shall become ordinances for a period of one year unless sooner modified or repealed.

Sec. 9.03. Charter superseded.

Articles I through XV of the charter of the City of Lake Wales, being Chapter 29224, Laws of Florida, Special Acts 1953, and Chapter 57-1488, Laws of Florida, Special Acts 1957, as amended from time to time, are superseded by this revision.

Sec. 9.04. Ordinances and resolutions preserved.

All ordinances and resolutions in effect upon the adoption of this revision, to the extent not inconsistent with it, shall remain in force until they expire by their terms or are repealed.

Sec. 9.05. Rights preserved.

All actions, rights of action, claims, contracts and obligations of individuals, corporations, and public bodies or agencies existing on the date this revision becomes effective shall continue to be valid as if this revision had not been adopted. All taxes, penalties, fines and forfeitures owing to the City of Lake Wales, shall inure to the City of Lake Wales under this revision, and all sentences as punishment for crimes shall be executed according to their terms.

Sec. 9.06. Deletion of obsolete sections.

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

Sec. 9.07. Clerical changes.

The commission shall have power, by resolution, to make non-substantive clerical changes to the charter in order to correct language that has become obsolete, inappropriate, or not conforming to commonly accepted usage.

SECTION 2: If any portion or portions of this ordinance are declared to be invalid, the remaining portions shall have the same force and effect as though such invalid portion or portions had not been included.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall not take effect unless approved by a majority of the qualified electors of the City of Lake Wales voting in an election to be called and held for that purpose on the 5th day of April, 2011.

The questions to be submitted to the voters shall appear on the ballot as shown in Exhibit "A" attached to this ordinance.

SECTION 5: If the amendments are approved by a majority of the electors voting in the election, then this ordinance shall become effective on April 5, 2011 with implementation dates as specified herein. The City Commission shall have the amendments incorporated into the charter and shall file the revised charter with the Department of State in accordance with §166.031, F.S.

If approved, the following amendments shall be implemented with the municipal election to be held on Tuesday, April 2, 2013:

- amendment number 9 (sec. 8.10, commission districts)
- amendment number 10 (sec. 8.03, establishing seat one as at-large seat)
- amendment number 11 (sec. 3.05, revising method for election, term of mayor)
- amendment number 12 (sec. 3.06, revising duties and responsibilities of mayor)
- amendment number 13 (sec. 3.04, revising mayor's salary)

For purposes of transition, all commissioners serving or elected on the effective date of this ordinance shall complete the terms to which they have been elected although the seat number represented may be changed in conjunction with implementation of amendment number 9.

All other amendments that are approved shall be implemented immediately upon approval.

CERTIFIED AS TO PASSAGE this 1st day of February, 2011.

Mayor/Commissioner
City of Lake Wales

ATTEST:

City Clerk

[Words ~~stricken~~ are deletions; words underlined are additions.]

EXHIBIT "A"
LAKE WALES CHARTER AMENDMENTS - BALLOT TITLES AND SUMMARIES

GROUP I AMENDMENTS - CORRECTING OR UPDATING CHARTER

AMENDMENT #1
SEC. 3.08(c)

UPDATING PROCEDURES FOR FILLING VACANCIES ON THE COMMISSION

This amendment corrects outdated and complicated procedures to fill a vacancy that occurs because of resignation, illness, or other reasons: A vacancy on the commission will be filled by a majority vote of the remaining members. The interim commissioner will serve until the seat is filled in a regular election by the voters and the next elected commissioner takes office.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1889 "YES" APPROVED BY ELECTORS
NO against Approval. 206 "NO"

AMENDMENT #2
SEC. 3.10

DELETING PROCEDURES FOR INITIATIVE AND REFERENDUM

Procedures included in the charter for initiative and referendum elections will be deleted to streamline the charter. These procedures are included in Florida Statutes and the city's Election Code and are unnecessary in the charter.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1762 "YES" APPROVED BY ELECTORS
NO against Approval. 304 "NO"

AMENDMENT #3
SEC. 4.03

CORRECTING CHARTER PROCEDURE TO DESIGNATE AN ACTING CITY MANAGER

This amendment corrects the charter by eliminating an outdated procedure that no longer complies with Florida law and replacing it with language that reflects current practice: The commission is authorized to designate by resolution a city employee who will perform the city manager's duties during the city manager's temporary absence or disability.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1908 "YES" APPROVED BY ELECTORS
NO against Approval. 179 "NO"

**AMENDMENT #4
SEC. 8.01(a)**

CORRECTING CHARTER PROCEDURE RELATING TO SETTING AN ELECTION DATE

This is a correction to clean up the charter. Setting the city's election date will be deleted from the charter. Instead, the charter will just refer to the Lake Wales Municipal Election Code, where the city's election date will be established by ordinance as authorized by Florida law.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1888 "YES" APPROVED BY ELECTORS
NO against Approval. 184 "NO"

**AMENDMENT #5
SEC. 8.06(b)**

DELETING CONFLICT WITH FLORIDA LAW FOR CANVASS OF ELECTION RETURNS

This amendment is necessary to clean up the charter. Outdated provisions that conflict with the Florida law governing the canvass of election returns will be deleted because Florida law acts to supersede conflicting local rules.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1880 "YES" APPROVED BY ELECTORS
NO against Approval. 188 "NO"

**AMENDMENT #6
SEC. 9.07**

GRANTING AUTHORITY TO MAKE CLERICAL CHANGES TO CHARTER BY RESOLUTION

The city commission will be authorized to pass a resolution to make clerical changes to the charter in order to correct language that has become obsolete or inappropriate or does not conform to commonly accepted usage. This amendment applies only to minor corrections that will not alter the meaning of the charter. It will not apply to policy or other substantive changes which will still require approval by the voters.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1806 "YES" APPROVED BY ELECTORS
NO against Approval. 269 "NO"

GROUP II AMENDMENTS - CHANGES TO WAY IN WHICH CITY GOVERNMENT IS CONDUCTED

**AMENDMENT #7
SEC. 3.09(d)**

REQUIRING AT LEAST THREE "YES" VOTES TO APPROVE ANY AGENDA ITEM

The "yes" vote of at least three commissioners will be required to approve any item needing a commission vote. Currently, a "yes" vote of at least three commissioners is required to approve an ordinance or resolution, but approval of other items requires only a majority of the commissioners present at the meeting. In other words, if two commissioners are absent from a meeting, an item could currently be approved by a 2-1 vote.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1781 "YES" APPROVED BY ELECTORS
NO against Approval. 302 "NO"

**AMENDMENT #8
SEC. 1.03**

REQUIRING AT LEAST FOUR VOTES TO CHANGE OR REPEAL AN ETHICS ORDINANCE

Florida law authorizes the city commission to adopt a local ethics ordinance that is more stringent than Florida law. If the commission chooses to adopt such an ordinance, it can only be revised or repealed by a super majority vote of the commission. With a 5-member commission, this means that a minimum of four "yes" votes is required.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1304 "YES" APPROVED BY ELECTORS
NO against Approval. 742 "NO"

**AMENDMENT #9
SEC. 8.10**

ESTABLISHING RESIDENCE REQUIREMENTS FOR COMMISSION DISTRICTS

Effective with the 2013 election, five commissioners will be elected from four geographical districts as equal as possible in population. Commissioners will fill four district seats and one city-wide "at-large" seat. This means that candidates for four seats must reside within a geographical district, and candidates for one seat may reside anywhere in the city. All candidates will be elected by all voters in the city, and each commissioner will represent all citizens equally.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1357 "YES" APPROVED BY ELECTORS
NO against Approval. 711 "NO"

**AMENDMENT #10
SEC. 8.03**

ESTABLISHING SEAT ONE AS THE AT-LARGE SEAT

Candidates for election to seat one may reside anywhere within the city limits. Candidates for seats two through five will still be elected from geographical districts. All candidates will be elected by all the city's voters. Even though residing in a given geographic district, all commissioners are charged to represent every citizen equally. (Adoption of this amendment requires voter approval of Amendment #9.)

Question - Shall the above-described amendment be adopted?

YES for Approval. 1221 "YES" APPROVED BY ELECTORS
NO against Approval. 833 "NO"

**AMENDMENT #11
SEC. 3.05**

MAYOR WILL BE ELECTED BY VOTERS TO AT-LARGE SEAT FOR 4-YEAR TERM

Effective with the 2013 election, the mayor will be elected by the entire city to the "at-large" seat for a four-year term as are the other commissioners. Any registered city voter is eligible to run for the position. A sitting commissioner deciding to run for mayor will be subject to the resign to run law, thereby creating a vacancy for that candidate's unexpired commission term which will be filled as described in the amendment.

Question - Shall the above-described amendment be adopted?

YES for Approval. 1162 "YES" APPROVED BY ELECTORS
NO against Approval. 903 "NO"

**AMENDMENT #12
SEC. 3.06**

MAYOR WILL BE ASSIGNED A LEADERSHIP ROLE WITH ADDED DUTIES

The mayor's duties and responsibilities will be increased to include: making appointments to citizen boards with approval of the commission; serving as the liaison between city government and citizens, community organizations, etc.; presenting the annual state of the city message; promoting programs and matters important to the progress and well-being of the community; and other duties of a leadership nature in representing the city. (Adoption of this amendment requires voter approval of Amendment #11.)

Question - Shall the above-described amendment be adopted?

YES for Approval. 1174 "YES" APPROVED BY ELECTORS
NO against Approval. 898 "NO"

**AMENDMENT #13
SEC. 3.04**

MAYOR'S SALARY WILL BE GREATER THAN OTHER COMMISSIONERS

The mayor's salary will be at least fifty percent higher than the salary of the other commissioners in order to compensate for additional duties and responsibilities. The mayor's actual salary will be established by ordinance following a public hearing. (Adoption of this amendment requires voter approval of Amendments #11 and #12.)

Question - Shall the above-described amendment be adopted?

YES for Approval. 881 "YES" NOT APPROVED BY ELECTORS
NO against Approval. 1187 "NO"

**AMENDMENT #14
SEC. 4.02**

ELIMINATING A PUBLIC HEARING FOR TERMINATION OF A CITY MANAGER

The city commission will be able to terminate a city manager without the need for a public hearing on the matter.

Question - Shall the above-described amendment be adopted?

YES for Approval. 529 "YES" NOT APPROVED BY ELECTORS
NO against Approval. 1556 "NO"

[end of Exhibit "A"]