



**For more information, Contact:**

Angee Grimmage, City Clerk

**City of Winter Garden**

300 West Plant Street

Winter Garden, FL 34787

**407.656.4111 ext. 2297**

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## CHARTER REVIEW COMMITTEE

**BOARD MEMBERS**

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

**OTHER ATTENDEES**

Kurt Ardaman  
Dan Langley  
Facilitator (TBD)  
Angee Grimmage  
Venice Alexander

RE: **AGENDA - June 10, 2019 - 5:30 PM**  
City Hall - Commission Chambers  
300 West Plant Street, Winter Garden

1. **Call to Order**  
Determination of Quorum & Welcome
2. **Overview of Process**
3. **Sunshine Guide – Ethics Laws**
4. **Background Information on Municipal Charters**
5. **Establishment of Ground Rules**
6. **Meeting Schedule**
7. **General Discussion**
8. **Adjournment - 7:30 PM**

PLEASE NOTE: IN ACCORDANCE WITH FLORIDA STATUTE 286.26: PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT ANGEE GRIMMAGE, 300 WEST PLANT STREET, WINTER GARDEN, FLORIDA 34787, (407) 656-4111, EXT 2297 - 48 HOURS IN ADVANCE OF THE MEETING.

# FLORIDA COMMISSION ON ETHICS



GUIDE  
to the  
SUNSHINE AMENDMENT  
and  
CODE of ETHICS  
for Public Officers and Employees

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**2019**

State of Florida  
COMMISSION ON ETHICS

**Guy W. Norris, *Chair***  
Lake City

**Kimberly Bonder Rezanka, *Vice Chair***  
Cocoa

**Jason David Berger**  
Palm City

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Stuart

**William "Willie" N. Meggs**  
Tallahassee

**Garrett S. Richter**  
Naples

**Virlindia Doss**  
*Executive Director*  
P.O. Drawer 15709  
Tallahassee, FL 32317-5709  
[www.ethics.state.fl.us](http://www.ethics.state.fl.us)  
(850) 488-7864\*

\*Please direct all requests for information to this number.

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## I. HISTORY OF FLORIDA'S ETHICS LAWS

Florida has been a leader among the states in establishing ethics standards for public officials and recognizing the right of citizens to protect the public trust against abuse. Our state Constitution was revised in 1968 to require a code of ethics, prescribed by law, for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.

Florida's first successful constitutional initiative resulted in the adoption of the Sunshine Amendment in 1976, providing additional constitutional guarantees concerning ethics in government. In the area of enforcement, the Sunshine Amendment requires that there be an independent commission (the Commission on Ethics) to investigate complaints concerning breaches of public trust by public officers and employees other than judges.

The Code of Ethics for Public Officers and Employees is found in Chapter 112 (Part III) of the Florida Statutes. Foremost among the goals of the Code is to promote the public interest and maintain the respect of the people for their government. The Code is also intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law. While seeking to protect the integrity of government, the Code also seeks to avoid the creation of unnecessary barriers to public service.

Criminal penalties, which initially applied to violations of the Code, were eliminated in 1974 in favor of administrative enforcement. The Legislature created the Commission on Ethics that year "to serve as guardian of the standards of conduct" for public officials, state and local. Five of the Commission's nine members are appointed by the Governor, and two each are appointed by the President of the Senate and Speaker of the House of Representatives. No more than five Commission members may be members of the same political party, and none may be lobbyists, or hold any public employment during their two-year terms of office. A chair is selected from among the members to serve a one-year term and may not succeed himself or herself.

In 2018, Florida's Constitutional Revision Commission proposed, and the voters adopted, changes to Article II, Section 8. The earliest of the changes will take effect December 31, 2020, and will prohibit officials from abusing their position to obtain a disproportionate benefit for themselves or their spouse, child, or employer, or for a business with which the official contracts or is an officer, partner, director, sole proprietor, or in which the official owns an interest. Other changes made to the Constitution place restrictions on lobbying by certain officeholders and employees, and put additional limits on lobbying by former public officers and employees. These changes will become effective December 31, 2022.

## **II. ROLE OF THE COMMISSION ON ETHICS**

In addition to its constitutional duties regarding the investigation of complaints, the Commission:

- Renders advisory opinions to public officials;
- Prescribes forms for public disclosure;
- Prepares mailing lists of public officials subject to financial disclosure for use by Supervisors of Elections and the Commission in distributing forms and notifying delinquent filers;
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws, since it does not impose penalties;
- Administers the Executive Branch Lobbyist Registration and Reporting Law;
- Maintains financial disclosure filings of constitutional officers and state officers and employees; and,
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.

## **III. THE ETHICS LAWS**

The ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. The following descriptions of these laws have been simplified in an effort to provide notice of their requirements. Therefore, we suggest that you also review the wording of the actual law. Citations to the appropriate laws are in brackets.

The laws summarized below apply generally to all public officers and employees, state and local, including members of advisory bodies. The principal exception to this broad coverage is the exclusion of judges, as they fall within the jurisdiction of the Judicial Qualifications Commission.

Public Service Commission (PSC) members and employees, as well as members of the PSC Nominating Council, are subject to additional ethics standards that are enforced by the Commission on Ethics under Chapter 350, Florida Statutes. Further, members of the governing boards of charter schools are subject to some of the provisions of the Code of Ethics [Sec. 1002.33(26), Fla. Stat.], as are the officers, directors, chief executive officers and some employees of business entities that serve as the chief administrative or executive officer or employee of a political subdivision. [Sec. 112.3136, Fla. Stat.].

## A. PROHIBITED ACTIONS OR CONDUCT

### 1. *Solicitation and Acceptance of Gifts*

Public officers, employees, local government attorneys, and candidates are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service that is based on an understanding that their vote, official action, or judgment would be influenced by such gift. [Sec. 112.313(2), Fla. Stat.]

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** any gift from a political committee, lobbyist who has lobbied the official or his or her agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist or from a vendor doing business with the official's agency. [Sec. 112.3148, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees are prohibited from directly or indirectly **accepting** a gift worth more than \$100 from such a lobbyist, from a partner, firm, employer, or principal of the lobbyist, or from a political committee or vendor doing business with their agency. [Sec.112.3148, Fla. Stat.]

**However**, notwithstanding Sec. 112.3148, Fla. Stat., no Executive Branch lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] Typically, this would include gifts valued at less than \$100 that formerly were permitted under Section 112.3148, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

Also, persons required to file Form 1 or Form 6, and state procurement employees and members of their immediate families, are prohibited from accepting any gift from a political committee. [Sec. 112.31485, Fla. Stat.]

### 2. *Unauthorized Compensation*

Public officers or employees, local government attorneys, and their spouses and minor children are prohibited from accepting any compensation, payment, or thing of value when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action. [Sec. 112.313(4), Fla. Stat.]

### *3. Misuse of Public Position*

Public officers and employees, and local government attorneys are prohibited from corruptly using or attempting to use their official positions or the resources thereof to obtain a special privilege or benefit for themselves or others. [Sec. 112.313(6), Fla. Stat.]

### *4. Disclosure or Use of Certain Information*

Public officers and employees and local government attorneys are prohibited from disclosing or using information not available to the public and obtained by reason of their public position, for the personal benefit of themselves or others. [Sec. 112.313(8), Fla. Stat.]

### *5. Solicitation or Acceptance of Honoraria*

Persons required to file financial disclosure FORM 1 or FORM 6 (see Part III F of this brochure), and state procurement employees, are prohibited from **soliciting** honoraria related to their public offices or duties. [Sec. 112.3149, Fla. Stat.]

Persons required to file FORM 1 or FORM 6, and state procurement employees, are prohibited from knowingly **accepting** an honorarium from a political committee, lobbyist who has lobbied the person's agency within the past 12 months, or the partner, firm, employer, or principal of such a lobbyist, or from a vendor doing business with the official's agency. However, they may accept the payment of expenses related to an honorarium event from such individuals or entities, provided that the expenses are disclosed. See Part III F of this brochure. [Sec. 112.3149, Fla. Stat.]

Lobbyists and their partners, firms, employers, and principals, as well as political committees and vendors, are prohibited from **giving** an honorarium to persons required to file FORM 1 or FORM 6 and to state procurement employees. Violations of this law may result in fines of up to \$5,000 and prohibitions against lobbying for up to two years. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no Executive Branch or legislative lobbyist or principal shall make, directly or indirectly, and no Executive Branch agency official who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.] This may include honorarium event related expenses that formerly were permitted under Sec. 112.3149, Fla. Stat. Similar rules apply to members and employees of the Legislature. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.]

## **B. PROHIBITED EMPLOYMENT AND BUSINESS RELATIONSHIPS**

### *1. Doing Business With One's Agency*

(a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

(b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

### *2. Conflicting Employment or Contractual Relationship*

(a) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]

(b) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]

(c) Limited exceptions to this prohibition have been created in the law for legislative bodies, certain special tax districts, drainage districts, and persons whose professions or occupations qualify them to hold their public positions. [Sec. 112.313(7)(a) and (b), Fla. Stat.]

*3. Exemptions—Pursuant to Sec. 112.313(12), Fla. Stat., the prohibitions against doing business with one's agency and having conflicting employment may not apply:*

(a) When the business is rotated among all qualified suppliers in a city or county.

(b) When the business is awarded by sealed, competitive bidding and neither the official nor his or her spouse or child have attempted to persuade agency personnel to enter the contract. NOTE: Disclosure of the interest of the official, spouse, or child and the nature of the business must be filed prior to or at the time of submission of the bid on Commission FORM 3A with the Commission on Ethics or Supervisor of Elections, depending on whether the official serves at the state or local level.

(c) When the purchase or sale is for legal advertising, utilities service, or for passage on a common carrier.

(d) When an emergency purchase must be made to protect the public health, safety, or welfare.

(e) When the business entity is the only source of supply within the political subdivision and there is full disclosure of the official's interest to the governing body on Commission FORM 4A.

(f) When the aggregate of any such transactions does not exceed \$500 in a calendar year.

(g) When the business transacted is the deposit of agency funds in a bank of which a county, city, or district official is an officer, director, or stockholder, so long as agency records show that the governing body has determined that the member did not favor his or her bank over other qualified banks.

(h) When the prohibitions are waived in the case of ADVISORY BOARD MEMBERS by the appointing person or by a two-thirds vote of the appointing body (after disclosure on Commission FORM 4A).

(i) When the public officer or employee purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency.

(j) When the public officer or employee in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of the general public and the officer or employee makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

#### *4. Additional Exemptions*

No elected public officer is in violation of the conflicting employment prohibition when employed by a tax exempt organization contracting with his or her agency so long as the officer is not directly or indirectly compensated as a result of the contract, does not participate in any way in the decision to enter into the contract, abstains from voting on any matter involving the employer, and makes certain disclosures. [Sec. 112.313(15), Fla. Stat.] A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from conflicts of interest arising from assets placed in the trust.

#### *5. Legislators Lobbying State Agencies*

A member of the Legislature is prohibited from representing another person or entity for compensation during his or her term of office before any state agency other than judicial tribunals. [Art. II, Sec. 8(e), Fla. Const., and Sec. 112.313(9), Fla. Stat.]

#### *6. Employees Holding Office*

A public employee is prohibited from being a member of the governing body which serves as his or her employer. [Sec. 112.313(10), Fla. Stat.]

#### *7. Professional and Occupational Licensing Board Members*

An officer, director, or administrator of a state, county, or regional professional or occupational organization or association, while holding such position, may not serve as a member of a state examining or licensing board for the profession or occupation. [Sec. 112.313(11), Fla. Stat.]

#### *8. Contractual Services: Prohibited Employment*

A state employee of the executive or judicial branch who participates in the decision-making process involving a purchase request, who influences the content of any specification or procurement standard, or who renders advice, investigation, or auditing, regarding his or her agency's contract for services, is prohibited from being employed with a person holding such a contract with his or her agency. [Sec. 112.3185(2), Fla. Stat.]

#### *9. Local Government Attorneys*

Local government attorneys, such as the city attorney or county attorney, and their law firms are prohibited from representing private individuals and entities before the unit of local government which they serve. A local government attorney cannot recommend or otherwise refer to his or her firm legal work involving the local government unit unless the attorney's contract authorizes or mandates the use of that firm. [Sec. 112.313(16), Fla. Stat.]

#### *10. Dual Public Employment*

Candidates and elected officers are prohibited from accepting public employment if they know or should know it is being offered for the purpose of influence. Further, public employment may not be accepted unless the position was already in existence or was created without the anticipation of the official's interest, was publicly advertised, and the officer had to meet the same qualifications and go through the same hiring process as other applicants. For elected public officers already holding public

employment, no promotion given for the purpose of influence may be accepted, nor may promotions that are inconsistent with those given other similarly situated employees. [Sec. 112.3125, Fla. Stat.]

### **C. RESTRICTIONS ON APPOINTING, EMPLOYING, AND CONTRACTING WITH RELATIVES**

#### *1. Anti-Nepotism Law*

A public official is prohibited from seeking for a relative any appointment, employment, promotion, or advancement in the agency in which he or she is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies. NOTE: This prohibition does not apply to school districts (except as provided in Sec. 1012.23, Fla. Stat.), community colleges and state universities, or to appointments of boards, other than those with land-planning or zoning responsibilities, in municipalities of fewer than 35,000 residents. Also, the approval of budgets does not constitute “jurisdiction or control” for the purposes of this prohibition. This provision does not apply to volunteer emergency medical, firefighting, or police service providers. [Sec. 112.3135, Fla. Stat.]

#### *2. Additional Restrictions*

A state employee of the executive or judicial branch or the PSC is prohibited from directly or indirectly procuring contractual services for his or her agency from a business entity of which a relative is an officer, partner, director, or proprietor, or in which the employee, or his or her spouse, or children own more than a 5% interest. [Sec. 112.3185(6), Fla. Stat.]

### **D. POST OFFICE HOLDING AND EMPLOYMENT (REVOLVING DOOR) RESTRICTIONS**

#### *1. Lobbying by Former Legislators, Statewide Elected Officers, and Appointed State Officers*

A member of the Legislature or a statewide elected or appointed state official is prohibited for two years following vacation of office from representing another person or entity for compensation before the government body or agency of which the individual was an officer or member. Former members of the Legislature are also prohibited for two years from lobbying the executive branch. [Art. II, Sec. 8(e), Fla. Const. and Sec. 112.313(9), Fla. Stat.]

#### *2. Lobbying by Former State Employees*

Certain employees of the executive and legislative branches of state government are prohibited from personally representing another person or entity for compensation before the agency with which

they were employed for a period of two years after leaving their positions, unless employed by another agency of state government. [Sec. 112.313(9), Fla. Stat.] These employees include the following:

(a) Executive and legislative branch employees serving in the Senior Management Service and Selected Exempt Service, as well as any person employed by the Department of the Lottery having authority over policy or procurement.

(b) Persons serving in the following position classifications: the Auditor General; the director of the Office of Program Policy Analysis and Government Accountability (OPPAGA); the Sergeant at Arms and Secretary of the Senate; the Sergeant at Arms and Clerk of the House of Representatives; the executive director and deputy executive director of the Commission on Ethics; an executive director, staff director, or deputy staff director of each joint committee, standing committee, or select committee of the Legislature; an executive director, staff director, executive assistant, legislative analyst, or attorney serving in the Office of the President of the Senate, the Office of the Speaker of the House of Representatives, the Senate Majority Party Office, the Senate Minority Party Office, the House Majority Party Office, or the House Minority Party Office; the Chancellor and Vice-Chancellors of the State University System; the general counsel to the Board of Regents; the president, vice presidents, and deans of each state university; any person hired on a contractual basis and having the power normally conferred upon such persons, by whatever title; and any person having the power normally conferred upon the above positions.

This prohibition does not apply to a person who was employed by the Legislature or other agency prior to July 1, 1989; who was a defined employee of the State University System or the Public Service Commission who held such employment on December 31, 1994; or who reached normal retirement age and retired by July 1, 1991. It does apply to OPS employees.

**PENALTIES:** Persons found in violation of this section are subject to the penalties contained in the Code (see PENALTIES, Part V) as well as a civil penalty in an amount equal to the compensation which the person received for the prohibited conduct. [Sec. 112.313(9)(a)5, Fla. Stat.]

### *3. Additional Restrictions on Former State Employees*

A former executive or judicial branch employee or PSC employee is prohibited from having employment or a contractual relationship, at any time after retirement or termination of employment, with any business entity (other than a public agency) in connection with a contract in which the employee participated personally and substantially by recommendation or decision while a public employee. [Sec. 112.3185(3), Fla. Stat.]

A former executive or judicial branch employee or PSC employee who has retired or terminated employment is prohibited from having any employment or contractual relationship for two years with

any business entity (other than a public agency) in connection with a contract for services which was within his or her responsibility while serving as a state employee. [Sec.112.3185(4), Fla. Stat.]

Unless waived by the agency head, a former executive or judicial branch employee or PSC employee may not be paid more for contractual services provided by him or her to the former agency during the first year after leaving the agency than his or her annual salary before leaving. [Sec. 112.3185(5), Fla. Stat.]

These prohibitions do not apply to PSC employees who were so employed on or before Dec. 31, 1994.

#### *4. Lobbying by Former Local Government Officers and Employees*

A person elected to county, municipal, school district, or special district office is prohibited from representing another person or entity for compensation before the government body or agency of which he or she was an officer for two years after leaving office. Appointed officers and employees of counties, municipalities, school districts, and special districts may be subject to a similar restriction by local ordinance or resolution. [Sec. 112.313(13) and (14), Fla. Stat.]

### **E. VOTING CONFLICTS OF INTEREST**

State public officers are prohibited from voting in an official capacity on any measure which they know would inure to their own special private gain or loss. A state public officer who abstains, or who votes on a measure which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, must make every reasonable effort to file a memorandum of voting conflict with the recording secretary in advance of the vote. If that is not possible, it must be filed within 15 days after the vote occurs. The memorandum must disclose the nature of the officer's interest in the matter.

No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain when voting in that capacity.

No appointed state or local officer shall participate in any matter which would inure to the officer's special private gain or loss, the special private gain or loss of any principal by whom he or she is retained, of the parent organization or subsidiary or sibling of a corporate principal by which he or she is retained, of a relative, or of a business associate, without first disclosing the nature of his or her interest in the matter. The memorandum of voting conflict (Commission Form 8A or 8B) must be filed with the meeting's recording officer, be provided to the other members of the agency, and be read publicly at the next meeting.

If the conflict is unknown or not disclosed prior to the meeting, the appointed official must orally disclose the conflict at the meeting when the conflict becomes known. Also, a written memorandum of voting conflict must be filed with the meeting's recording officer within 15 days of the disclosure being made and must be provided to the other members of the agency, with the disclosure being read publicly at the next scheduled meeting. [Sec. 112.3143, Fla. Stat.]

A qualified blind trust established pursuant to Sec. 112.31425, Fla. Stat., may afford an official protection from voting conflicts of interest arising from assets placed in the trust.

## **F. DISCLOSURES**

Conflicts of interest may occur when public officials are in a position to make decisions that affect their personal financial interests. This is why public officers and employees, as well as candidates who run for public office, are required to publicly disclose their financial interests. The disclosure process serves to remind officials of their obligation to put the public interest above personal considerations. It also helps citizens to monitor the considerations of those who spend their tax dollars and participate in public policy decisions or administration.

All public officials and candidates do not file the same degree of disclosure; nor do they all file at the same time or place. Thus, care must be taken to determine which disclosure forms a particular official or candidate is required to file.

The following forms are described below to set forth the requirements of the various disclosures and the steps for correctly providing the information in a timely manner.

### **1. FORM 1 - Limited Financial Disclosure**

#### **Who Must File:**

Persons required to file FORM 1 include all state officers, local officers, candidates for local elective office, and specified state employees as defined below (other than those officers who are required by law to file FORM 6).

STATE OFFICERS include:

- 1) Elected public officials not serving in a political subdivision of the state and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of each board, commission, authority, or council having statewide jurisdiction, excluding members of solely advisory bodies; but including judicial nominating commission members; directors of Enterprise Florida, Scripps Florida Funding Corporation, and CareerSource Florida, and members of the Council on the Social Status of Black Men and Boys; the Executive Director, governors, and senior managers of Citizens Property Insurance Corporation; governors and senior managers of Florida Workers' Compensation Joint Underwriting Association, board members of the Northeast Florida Regional Transportation Commission, and members of the board of Triumph Gulf Coast, Inc.; members of the board of Florida is for Veterans, Inc.; and members of the Technology Advisory Council within the Agency for State Technology.
- 3) The Commissioner of Education, members of the State Board of Education, the Board of Governors, local boards of trustees and presidents of state universities, and members of the Florida Prepaid College Board.

LOCAL OFFICERS include:

- 1) Persons elected to office in any political subdivision (such as municipalities, counties, and special districts) and any person appointed to fill a vacancy in such office, unless required to file full disclosure on Form 6.
- 2) Appointed members of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision: the governing body of the subdivision; a community college or junior college district board of trustees; a board having the power to enforce local code provisions; a planning or zoning board, board of adjustments or appeals, community redevelopment agency board, or other board having the power to recommend, create, or modify land planning or zoning within the political subdivision, except for citizen advisory committees, technical coordinating committees, and similar groups who only have the power to make recommendations to planning or zoning boards, except for representatives of a military installation acting on behalf of all military installations within that jurisdiction; a pension board or retirement board empowered to invest pension or retirement funds or to determine entitlement to or amount of a pension or other retirement benefit.
- 3) Any other appointed member of a local government board who is required to file a statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.

- 4) Persons holding any of these positions in local government: mayor; county or city manager; chief administrative employee or finance director of a county, municipality, or other political subdivision; county or municipal attorney; chief county or municipal building inspector; county or municipal water resources coordinator; county or municipal pollution control director; county or municipal environmental control director; county or municipal administrator with power to grant or deny a land development permit; chief of police; fire chief; municipal clerk; appointed district school superintendent; community college president; district medical examiner; purchasing agent (regardless of title) having the authority to make any purchase exceeding \$20,000 for the local governmental unit.
- 5) Members of governing boards of charter schools operated by a city or other public entity.
- 6) The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision. [Sec. 112.3136, Fla. Stat.]

SPECIFIED STATE EMPLOYEE includes:

- 1) Employees in the Office of the Governor or of a Cabinet member who are exempt from the Career Service System, excluding secretarial, clerical, and similar positions.
- 2) The following positions in each state department, commission, board, or council: secretary or state surgeon general, assistant or deputy secretary, executive director, assistant or deputy executive director, and anyone having the power normally conferred upon such persons, regardless of title.
- 3) The following positions in each state department or division: director, assistant or deputy director, bureau chief, assistant bureau chief, and any person having the power normally conferred upon such persons, regardless of title.
- 4) Assistant state attorneys, assistant public defenders, criminal conflict and civil regional counsel, assistant criminal conflict and civil regional counsel, public counsel, full-time state employees serving as counsel or assistant counsel to a state agency, judges of compensation claims, administrative law judges, and hearing officers.
- 5) The superintendent or director of a state mental health institute established for training and research in the mental health field, or any major state institution or facility established for corrections, training, treatment, or rehabilitation.

6) State agency business managers, finance and accounting directors, personnel officers, grant coordinators, and purchasing agents (regardless of title) with power to make a purchase exceeding \$20,000.

7) The following positions in legislative branch agencies: each employee (other than those employed in maintenance, clerical, secretarial, or similar positions and legislative assistants exempted by the presiding officer of their house); and each employee of the Commission on Ethics.

#### What Must Be Disclosed:

FORM 1 requirements are set forth fully on the form. In general, this includes the reporting person's sources and types of financial interests, such as the names of employers and addresses of real property holdings. NO DOLLAR VALUES ARE REQUIRED TO BE LISTED. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

#### When to File:

CANDIDATES for elected local office must file FORM 1 together with and at the same time they file their qualifying papers.

STATE and LOCAL OFFICERS and SPECIFIED STATE EMPLOYEES are required to file disclosure by July 1 of each year. They also must file within thirty days from the date of appointment or the beginning of employment. Those appointees requiring Senate confirmation must file prior to confirmation.

#### Where to File:

Each LOCAL OFFICER files FORM 1 with the Supervisor of Elections in the county in which he or she permanently resides.

A STATE OFFICER or SPECIFIED STATE EMPLOYEE files with the Commission on Ethics. [Sec. 112.3145, Fla. Stat.]

## 2. *FORM 1F - Final Form 1 Limited Financial Disclosure*

FORM 1F is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 1 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

### 3. *FORM 2 - Quarterly Client Disclosure*

The state officers, local officers, and specified state employees listed above, as well as elected constitutional officers, must file a FORM 2 if they or a partner or associate of their professional firm represent a client for compensation before an agency at their level of government.

A FORM 2 disclosure includes the names of clients represented by the reporting person or by any partner or associate of his or her professional firm for a fee or commission before agencies at the reporting person's level of government. Such representations do not include appearances in ministerial matters, appearances before judges of compensation claims, or representations on behalf of one's agency in one's official capacity. Nor does the term include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license, so long as the issuance of the license does not require a variance, special consideration, or a certificate of public convenience and necessity.

#### When to File:

This disclosure should be filed quarterly, by the end of the calendar quarter following the calendar quarter during which a reportable representation was made. FORM 2 need not be filed merely to indicate that no reportable representations occurred during the preceding quarter; it should be filed ONLY when reportable representations were made during the quarter.

#### Where To File:

LOCAL OFFICERS file with the Supervisor of Elections of the county in which they permanently reside.

STATE OFFICERS and SPECIFIED STATE EMPLOYEES file with the Commission on Ethics. [Sec. 112.3145(4), Fla. Stat.]

### 4. *FORM 6 - Full and Public Disclosure*

#### Who Must File:

Persons required by law to file FORM 6 include all elected constitutional officers and candidates for such office; the mayor and members of the city council and candidates for these offices in Jacksonville; the Duval County Superintendent of Schools; judges of compensation claims (pursuant to Sec. 440.442, Fla. Stat.); members of the Florida Housing Finance Corporation Board and members of expressway authorities, transportation authorities (except the Jacksonville Transportation Authority), bridge authority, or toll authorities created pursuant to Ch. 348 or 343, or 349, or other general law.

## What Must be Disclosed:

FORM 6 is a detailed disclosure of assets, liabilities, and sources of income over \$1,000 and their values, as well as net worth. Officials may opt to file their most recent income tax return in lieu of listing sources of income but still must disclose their assets, liabilities, and net worth. In addition, the form requires the disclosure of certain relationships with, and ownership interests in, specified types of businesses such as banks, savings and loans, insurance companies, and utility companies.

## When and Where To File:

Incumbent officials must file FORM 6 annually by July 1 with the Commission on Ethics. CANDIDATES must file with the officer before whom they qualify at the time of qualifying. [Art. II, Sec. 8(a) and (i), Fla. Const., and Sec. 112.3144, Fla. Stat.]

### 5. FORM 6F - Final Form 6 Full and Public Disclosure

This is the disclosure form required to be filed within 60 days after a public officer or employee required to file FORM 6 leaves his or her public position. The form covers the disclosure period between January 1 and the last day of office or employment within that year.

### 6. FORM 9 - Quarterly Gift Disclosure

Each person required to file FORM 1 or FORM 6, and each state procurement employee, must file a FORM 9, Quarterly Gift Disclosure, with the Commission on Ethics on the last day of any calendar quarter following the calendar quarter in which he or she received a gift worth more than \$100, other than gifts from relatives, gifts prohibited from being accepted, gifts primarily associated with his or her business or employment, and gifts otherwise required to be disclosed. FORM 9 NEED NOT BE FILED if no such gift was received during the calendar quarter.

Information to be disclosed includes a description of the gift and its value, the name and address of the donor, the date of the gift, and a copy of any receipt for the gift provided by the donor. [Sec. 112.3148, Fla. Stat.]

### 7. FORM 10 - Annual Disclosure of Gifts from Government Agencies and Direct-Support Organizations and Honorarium Event Related Expenses

State government entities, airport authorities, counties, municipalities, school boards, water management districts, and the South Florida Regional Transportation Authority, may give a gift worth more than \$100 to a person required to file FORM 1 or FORM 6, and to state procurement employees, if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity

may give such a gift to a person who is an officer or employee of that entity. These gifts are to be reported on FORM 10, to be filed by July 1.

The governmental entity or direct-support organization giving the gift must provide the officer or employee with a statement about the gift no later than March 1 of the following year. The officer or employee then must disclose this information by filing a statement by July 1 with his or her annual financial disclosure that describes the gift and lists the donor, the date of the gift, and the value of the total gifts provided during the calendar year. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3148, Fla. Stat.]

In addition, a person required to file FORM 1 or FORM 6, or a state procurement employee, who receives expenses or payment of expenses related to an honorarium event from someone who is prohibited from giving him or her an honorarium, must disclose annually the name, address, and affiliation of the donor, the amount of the expenses, the date of the event, a description of the expenses paid or provided, and the total value of the expenses on FORM 10. The donor paying the expenses must provide the officer or employee with a statement about the expenses within 60 days of the honorarium event.

The disclosure must be filed by July 1, for expenses received during the previous calendar year, with the officer's or employee's FORM 1 or FORM 6. State procurement employees file their statements with the Commission on Ethics. [Sec. 112.3149, Fla. Stat.]

However, notwithstanding Sec. 112.3149, Fla. Stat., no executive branch or legislative lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. This may include gifts or honorarium event related expenses that formerly were permitted under Sections 112.3148 and 112.3149. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts, which include anything not primarily related to political activities authorized under ch. 106, are prohibited from political committees. [Sec. 112.31485 Fla. Stat.]

#### 8. *FORM 30 - Donor's Quarterly Gift Disclosure*

As mentioned above, the following persons and entities generally are prohibited from giving a gift worth more than \$100 to a reporting individual (a person required to file FORM 1 or FORM 6) or to a state procurement employee: a political committee; a lobbyist who lobbies the reporting individual's or procurement employee's agency, and the partner, firm, employer, or principal of such a lobbyist; and vendors. If such person or entity makes a gift worth between \$25 and \$100 to a reporting individual or state procurement employee (that is not accepted in behalf of a governmental entity or charitable

organization), the gift should be reported on FORM 30. The donor also must notify the recipient at the time the gift is made that it will be reported.

The FORM 30 should be filed by the last day of the calendar quarter following the calendar quarter in which the gift was made. If the gift was made to an individual in the legislative branch, FORM 30 should be filed with the Lobbyist Registrar. [See page 35 for address.] If the gift was to any other reporting individual or state procurement employee, FORM 30 should be filed with the Commission on Ethics.

However, notwithstanding Section 112.3148, Fla. Stat., no executive branch lobbyist or principal shall make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 shall knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. This may include gifts that formerly were permitted under Section 112.3148. [Sec. 112.3215, Fla. Stat.] Similar prohibitions apply to legislative officials and employees. However, these laws are not administered by the Commission on Ethics. [Sec. 11.045, Fla. Stat.] In addition, gifts from political committees are prohibited. [Sec. 112.31485, Fla. Stat.]

#### 9. *FORM 1X AND FORM 6X - Amendments to Form 1 and Form 6*

These forms are provided for officers or employees to amend their previously filed Form 1 or Form 6.

### **IV. AVAILABILITY OF FORMS**

LOCAL OFFICERS and EMPLOYEES who must file FORM 1 annually will be sent the form by mail from the Supervisor of Elections in the county in which they permanently reside not later than JUNE 1 of each year. Newly elected and appointed officials or employees should contact the heads of their agencies for copies of the form or download it from [www.ethics.state.fl.us](http://www.ethics.state.fl.us), as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

ELECTED CONSTITUTIONAL OFFICERS, OTHER STATE OFFICERS, and SPECIFIED STATE EMPLOYEES who must file annually FORM 1 or 6 will be sent these forms by mail from the Commission on Ethics by JUNE 1 of each year. Newly elected and appointed officers and employees should contact the heads of their agencies or the Commission on Ethics for copies of the form or download it from [www.ethics.state.fl.us](http://www.ethics.state.fl.us), as should those persons who are required to file their final disclosure statements within 60 days of leaving office or employment.

Any person needing one or more of the other forms described here may also obtain them from a Supervisor of Elections or from the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709. They are also available on the Commission's website: [www.ethics.state.fl.us](http://www.ethics.state.fl.us).

## V. PENALTIES

### A. *Non-criminal Penalties for Violation of the Sunshine Amendment and the Code of Ethics*

There are no criminal penalties for violation of the Sunshine Amendment and the Code of Ethics. Penalties for violation of these laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$10,000, and restitution of any pecuniary benefits received, and triple the value of a gift from a political committee.

### B. *Penalties for Candidates*

CANDIDATES for public office who are found in violation of the Sunshine Amendment or the Code of Ethics may be subject to one or more of the following penalties: disqualification from being on the ballot, public censure, reprimand, or a civil penalty not to exceed \$10,000, and triple the value of a gift received from a political committee.

### C. *Penalties for Former Officers and Employees*

FORMER PUBLIC OFFICERS or EMPLOYEES who are found in violation of a provision applicable to former officers or employees or whose violation occurred prior to such officer's or employee's leaving public office or employment may be subject to one or more of the following penalties: public censure and reprimand, a civil penalty not to exceed \$10,000, and restitution of any pecuniary benefits received, and triple the value of a gift received from a political committee.

### D. *Penalties for Lobbyists and Others*

An executive branch lobbyist who has failed to comply with the Executive Branch Lobbying Registration law (see Part VIII) may be fined up to \$5,000, reprimanded, censured, or prohibited from lobbying executive branch agencies for up to two years. Lobbyists, their employers, principals, partners, and firms, and political committees and committees of continuous existence who give a prohibited gift or honorarium or fail to comply with the gift reporting requirements for gifts worth between \$25 and \$100, may be penalized by a fine of not more than \$5,000 and a prohibition on lobbying, or employing a lobbyist to lobby, before the agency of the public officer or employee to whom the gift was given for up to two years. Any agent or person acting on behalf of a political committee giving a prohibited gift is personally liable for a civil penalty of up to triple the value of the gift.

Executive Branch lobbying firms that fail to timely file their quarterly compensation reports may be fined \$50 per day per principal for each day the report is late, up to a maximum fine of \$5,000 per report.

*E. Felony Convictions: Forfeiture of Retirement Benefits*

Public officers and employees are subject to forfeiture of all rights and benefits under the retirement system to which they belong if convicted of certain offenses. The offenses include embezzlement or theft of public funds; bribery; felonies specified in Chapter 838, Florida Statutes; impeachable offenses; and felonies committed with intent to defraud the public or their public agency. [Sec. 112.3173, Fla. Stat.]

*F. Automatic Penalties for Failure to File Annual Disclosure*

Public officers and employees required to file either Form 1 or Form 6 annual financial disclosure are subject to automatic fines of \$25 for each day late the form is filed after September 1, up to a maximum penalty of \$1,500. [Sec. 112.3144 and 112.3145, Fla. Stat.]

## **VI. ADVISORY OPINIONS**

Conflicts of interest may be avoided by greater awareness of the ethics laws on the part of public officials and employees through advisory assistance from the Commission on Ethics.

*A. Who Can Request an Opinion*

Any public officer, candidate for public office, or public employee in Florida who is in doubt about the applicability of the standards of conduct or disclosure laws to himself or herself, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission about himself or herself or that employee.

*B. How to Request an Opinion*

Opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation. Opinions are issued by the Commission and are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for the opinion. Published opinions will not bear the name of the persons involved unless they consent to the use of their names; however, the request and all information pertaining to it is a public record, made available to the Commission and to members of the public in advance of the Commission's consideration of the question.

### *C. How to Obtain Published Opinions*

All of the Commission's opinions are available for viewing or download at its website:  
[www.ethics.state.fl.us](http://www.ethics.state.fl.us).

## **VII. COMPLAINTS**

### *A. Citizen Involvement*

The Commission on Ethics cannot conduct investigations of alleged violations of the Sunshine Amendment or the Code of Ethics unless a person files a sworn complaint with the Commission alleging such violation has occurred, or a referral is received, as discussed below.

If you have knowledge that a person in government has violated the standards of conduct or disclosure laws described above, you may report these violations to the Commission by filing a sworn complaint on the form prescribed by the Commission and available for download at [www.ethics.state.fl.us](http://www.ethics.state.fl.us). The Commission is unable to take action based on learning of such misdeeds through newspaper reports, telephone calls, or letters.

You can obtain a complaint form (FORM 50), by contacting the Commission office at the address or phone number shown on the inside front cover of this booklet, or you can download it from the Commission's website:  
[www.ethics.state.fl.us](http://www.ethics.state.fl.us).

### *B. Referrals*

The Commission may accept referrals from: the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. A vote of six of the Commission's nine members is required to proceed on such a referral.

### *C. Confidentiality*

The complaint or referral, as well as all proceedings and records relating thereto, is confidential until the accused requests that such records be made public or until the matter reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the accused, the Commission is not free to release any documents or to comment on a complaint or referral to members of the public or press, so long as the complaint or referral remains in a confidential stage.

A COMPLAINT OR REFERRAL MAY NOT BE FILED WITH RESPECT TO A CANDIDATE ON THE DAY OF THE ELECTION, OR WITHIN THE 30 CALENDAR DAYS PRECEDING THE ELECTION DATE, UNLESS IT IS BASED ON PERSONAL INFORMATION OR INFORMATION OTHER THAN HEARSAY.

*D. How the Complaint Process Works*

Complaints which allege a matter within the Commission's jurisdiction are assigned a tracking number and Commission staff forwards a copy of the original sworn complaint to the accused within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five working days of their receipt.

Once a complaint is filed, it goes through three procedural stages under the Commission's rules. The first stage is a determination of whether the allegations of the complaint are legally sufficient: that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public at that time.

In cases of very minor financial disclosure violations, the official will be allowed an opportunity to correct or amend his or her disclosure form. Otherwise, if the complaint is found to be legally sufficient, a preliminary investigation will be undertaken by the investigative staff of the Commission. The second stage of the Commission's proceedings involves this preliminary investigation and a decision by the Commission as to whether there is probable cause to believe that there has been a violation of any of the ethics laws. If the Commission finds no probable cause to believe there has been a violation of the ethics laws, the complaint will be dismissed and will become a matter of public record. If the Commission finds probable cause to believe there has been a violation of the ethics laws, the complaint becomes public and usually enters the third stage of proceedings. This stage requires the Commission to decide whether the law was actually violated and, if so, whether a penalty should be recommended. At this stage, the accused has the right to request a public hearing (trial) at which evidence is presented, or the Commission may order that such a hearing be held. Public hearings usually are held in or near the area where the alleged violation occurred.

When the Commission concludes that a violation has been committed, it issues a public report of its findings and may recommend one or more penalties to the appropriate disciplinary body or official.

When the Commission determines that a person has filed a complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations, the complainant will be liable for costs plus reasonable attorney's fees incurred by the person complained against. The Department of Legal Affairs may bring a civil action to recover such fees and costs, if they are not paid voluntarily within 30 days.

*E. Dismissal of Complaints At Any Stage of Disposition*

The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal. [Sec. 112.324(12), Fla. Stat.]

*F. Statute of Limitations*

All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation or other breach of the public trust. Time starts to run on the day AFTER the violation or breach of public trust is committed. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a complaint is filed and the statute of limitations has run, the complaint will be dismissed. [Sec. 112.3231, Fla. Stat.]

## **VIII. EXECUTIVE BRANCH LOBBYING**

Any person who, for compensation and on behalf of another, lobbies an agency of the executive branch of state government with respect to a decision in the area of policy or procurement may be required to register as an executive branch lobbyist. Registration is required before lobbying an agency and is renewable annually. In addition, each lobbying firm must file a compensation report with the Commission for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. As noted above, no executive branch lobbyist or principal can make, directly or indirectly, and no executive branch agency official or employee who files FORM 1 or FORM 6 can knowingly accept, directly or indirectly, **any expenditure** made for the purpose of lobbying. [Sec. 112.3215, Fla. Stat.]

Paying an executive branch lobbyist a contingency fee based upon the outcome of any specific executive branch action, and receiving such a fee, is prohibited. A violation of this prohibition is a first degree misdemeanor, and the amount received is subject to forfeiture. This does not prohibit sales people from receiving a commission. [Sec. 112.3217, Fla. Stat.]

Executive branch departments, state universities, community colleges, and water management districts are prohibited from using public funds to retain an executive branch (or legislative branch) lobbyist, although these agencies may use full-time employees as lobbyists. [Sec. 11.062, Fla. Stat.]

Online registration and filing is available at [www.floridalobbyist.gov](http://www.floridalobbyist.gov). Additional information about the executive branch lobbyist registration system may be obtained by contacting the Lobbyist Registrar at the following address:

Executive Branch Lobbyist Registration  
Room G-68, Claude Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1425  
Phone: 850/922-4987

## **IX. WHISTLE-BLOWER'S ACT**

In 1986, the Legislature enacted a "Whistle-blower's Act" to protect employees of agencies and government contractors from adverse personnel actions in retaliation for disclosing information in a sworn complaint alleging certain types of improper activities. Since then, the Legislature has revised this law to afford greater protection to these employees.

While this language is contained within the Code of Ethics, the Commission has no jurisdiction or authority to proceed against persons who violate this Act. Therefore, a person who has disclosed information alleging improper conduct governed by this law and who may suffer adverse consequences as a result should contact one or more of the following: the Office of the Chief Inspector General in the Executive Office of the Governor; the Department of Legal Affairs; the Florida Commission on Human Relations; or a private attorney. [Sec. 112.3187 - 112.31895, Fla. Stat.]

## **X. ADDITIONAL INFORMATION**

As mentioned above, we suggest that you review the language used in each law for a more detailed understanding of Florida's ethics laws. The "Sunshine Amendment" is Article II, Section 8, of the Florida Constitution. The Code of Ethics for Public Officers and Employees is contained in Part III of Chapter 112, Florida Statutes.

Additional information about the Commission's functions and interpretations of these laws may be found in Chapter 34 of the Florida Administrative Code, where the Commission's rules are published, and in The Florida Administrative Law Reports, which until 2005 published many of the Commission's final orders. The Commission's rules, orders, and opinions also are available at [www.ethics.state.fl.us](http://www.ethics.state.fl.us).

If you are a public officer or employee concerned about your obligations under these laws, the staff of the Commission will be happy to respond to oral and written inquiries by providing information about the law, the Commission's interpretations of the law, and the Commission's procedures.

## **XI. TRAINING**

Constitutional officers and elected municipal officers are required to receive a total of four hours training, per calendar year, in the area of ethics, public records, and open meetings. The Commission on Ethics does not track compliance or certify providers.

Visit the training page on the Commission's website for up-to-date rules, opinions, audio/video training, and opportunities for live training conducted by Commission staff. A comprehensive online training course addressing Florida's Code of Ethics, as well as Sunshine Law, and Public Records Act is available via a link on the Commission's homepage.

PART I - CHARTER<sup>[1]</sup>

**PREAMBLE**

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

Footnotes:

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**Editor's note**— Printed herein is the Charter of the City of Winter Garden, Florida, adopted by referendum on September 25, 2007 and superseded the prior charter, which was adopted by Ord. No. 852, September 25, 1975 and by referendum on November 4, 1975. See Code Comparative Table for history. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Obvious misspellings have been corrected without notation. Additions made for clarity have been enclosed in brackets [ ].

**State Law reference**— Municipal home rule, F.S. ch. 166.

**ARTICLE I. - INCORPORATION; FORM OF GOVERNMENT; POWERS**

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

The inhabitants of the City of Winter Garden, Florida, within the corporate limits as now established, or as hereafter established in the manner provided by law, shall continue to be a municipal corporation in perpetuity, under the name of the "City of Winter Garden, Florida." The corporate limits as now established are on file in the city clerk's office.

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

Sec. 2. - Form of government.

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

Sec. 3. - Powers of city; general.

The City of Winter Garden hereby created, established and organized, shall have all governmental, corporate, and proprietary powers and authority to enable it to conduct municipal government; perform municipal functions; and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The powers of the City of Winter Garden shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and specific limitations contained herein. The specific mention of particular powers in the charter shall not be construed as limiting in any way the general power granted in this section.

Sec. 4. - Present ordinances continued in force.

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

Sec. 5. - Sale of alcoholic beverages.

All regulations affecting the location of any establishment selling intoxicating liquor, wine, or beer for consumption on the premises shall be subject to a referendum of the voters; and except for restaurants that derive more than fifty-one (51) percent of their annual revenue from the sales of food and nonalcoholic beverages served for consumption on the premises, any establishment selling intoxicating liquors, wine, or beer, for consumption on the premises, shall not be located less than one thousand two hundred (1,200) feet from a school or an established church within the corporate limits of the city.

Secs. 6—10. - Reserved.

ARTICLE II. - THE CITY COMMISSION

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

- (1) There shall be a city commission consisting of a mayor-commissioner who shall represent the entire city and be elected at large by the voters of the city, and four (4) commissioners each of whom shall represent a single member district and be elected by the voters in the district they represent. The mayor-commissioner and commissioners shall be qualified as hereinafter prescribed, and their term of office shall begin on the first regular meeting of the city commission after their election. The term of office of the mayor-commissioner and the commissioners shall be three (3) years.
- (2) The present members of the city commission shall hold their seats for the term of office for which they were respectively elected, or until their successors have been elected and take office.
- (3) The mayor-commissioner shall preside as chairperson of meetings of the commission, represent the city in intergovernmental relationships, present an annual state of the city message, and perform other duties as specified by the commission. The mayor-commissioner shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The mayor-commissioner as a city commission member shall have a voice and a vote in the proceedings of the commission; but no veto power.
- (4) At the first regular commission meeting after an election, including any runoffs and swearing in of commissioner(s), the commission shall elect from among its members a mayor pro-tem, who shall serve until a successor is elected. The mayor pro-tem shall act as mayor during the absence or disability of the mayor.
- (5) The commission may determine the annual salary of the mayor-commissioner and the commissioners by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of the mayor-commissioner and/or commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. The mayor-commissioner and the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 12. - Qualifications.

- (1) *Candidates.* Candidates for the city commission shall have been residents of the city and of the district in which they run for one (1) year immediately prior to the end of the qualifying period for the office and shall be registered voters in their district for said period, and shall maintain residency and voter registration in such district. Notwithstanding the foregoing, in the event a qualified candidate for commissioner fails to meet the residency and voter registration requirements for holding office solely as the result of a redistricting that occurs after the qualifying period for the election of such office,

such qualified candidate for commissioner may continue to run for the office which he/she qualified and if elected, serve without forfeiture under section 15 for the remainder of his/her term provided the qualified candidate maintains his/her residency and voter registration existing at the time of redistricting while running for office and, if elected, while serving as commissioner.

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

Sec. 13. - Powers of city commission.

All powers of the city shall be vested in the city commission, except as otherwise provided by law or this charter and the commission shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

Sec. 14. - Prohibitions.

- (1) *Appointments and Removals.* Neither the city commission nor any of its members shall control, demand, direct or request the appointment or removal of any city administrative officer or employee whom the city manager or any of the city manager's subordinates is empowered to appoint or hire.
- (2) *Interference with Administration.* Except for the purpose of an investigation pursuant to this charter, the city commission and its members shall deal with the city administrative officers and employees solely through the city manager, and neither the city commission nor any members thereof shall give orders to any subordinates of the city manager, either publicly or privately.
- (3) *Holding other Office.* Except where authorized by law, members of the city commission shall not hold any other public office. No commission member shall hold any employment with the city during the commission member's term of office. No former commission member shall hold any compensated appointed office or employment with the city until one (1) year after the end of such member's last term of office. Nothing in this section shall be construed to prohibit the commission from selecting any current or former commission member to represent the city on the governing board of any regional or other intergovernmental agency, or from selecting any current commissioner to serve on a municipal board as an ex officio member.

Sec. 15. - Forfeiture of office.

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

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

Sec. 16. - Judge of forfeiture.

The city commission shall be the judge of the grounds for forfeiture of office for its members. In order to exercise these powers, the commission shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A commission member charged by two (2) or more commissioners with conduct constituting grounds for forfeiture of office shall, upon request within five (5) business days of written notification of the charge, be entitled to a public hearing. Notice of such public hearing shall be published in a newspaper of general circulation in the city at least one (1) week in

advance of the hearing. At least three (3) members of the commission must approve the forfeiture of office of any commission member.

Sec. 17. - Vacancies in commission.

- (1) The office of mayor-commissioner or commissioner shall become vacant upon the death, resignation, forfeiture or removal from office in any manner prescribed by law or this charter.
- (2) Unless otherwise prescribed by general law, a vacancy on the commission shall be filled in the following manner:
  - (a) If there are six (6) months or less remaining in the unexpired term of the vacant office, within thirty (30) days of the occurrence of the vacancy, the commission by majority vote of its remaining members shall appoint a qualified person to fill the vacant office to serve the remainder of the term. Within fifteen (15) days of the occurrence of the vacancy, those persons interested in qualifying for appointment to the vacant office shall submit to the city clerk their name and other such information showing that they meet the qualifications for holding office pursuant to Section 12 of this charter. After the fifteen (15) day qualifying period, but before the expiration of thirty (30) days after the occurrence of the vacancy, the commission shall hold a special meeting for the purpose of filling the vacancy and at such meeting allow public comment on the matter. If the commission does not appoint a qualified person by the expiration of thirty (30) days after the occurrence of the vacancy, the vacant office shall be filled by drawing lots among the qualified persons receiving at least two (2) votes from the remaining commission members.
  - (b) If there are more than six (6) months remaining in the unexpired term of the vacant office, the commission shall schedule a special election to fill the vacancy and such election shall be held not sooner than forty-five (45) days and not later than sixty (60) days following the occurrence of the vacancy.

Sec. 18. - Induction of commissioners into office; meetings.

- (1) All meetings of the city commission and of the committees thereof shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep minutes of its proceedings.
- (2) The first meeting of newly elected mayor-commissioner and/or commissioners for induction into office, shall be held at the first regular meeting following their election, after which the commission shall meet regularly at such times as may be prescribed by its rules, but not less frequently than once each month.
- (3) The mayor-commissioner or any two (2) members of the commission may call special meetings of the city commission through the city clerk's office, upon no less than twelve (12) hours' notice to each commissioner delivered in a reasonable manner.
- (4) The mayor-commissioner or any two (2) members of the commission may convene an emergency commission meeting upon reasonable notice of such meeting given to each commission member. The first order of business at an emergency commission meeting shall be the determination, by affirmative vote of at least three (3) members of the commission that an emergency situation involving health, safety, or public welfare warranting commission action exists. Only matters relating to the emergency may be considered at the emergency meeting and any action taken at such meeting must be approved by at least three (3) members of the commission, except for emergency ordinances which shall be adopted in accordance with this charter.

Sec. 19. - Legislative procedure.

A majority of all members elected to the city commission shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalty as may be prescribed by ordinance. The affirmative vote of three (3) members shall be necessary to adopt any ordinance or resolution.

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

- (1) All action by the city commission of a legislative character shall be by ordinance. Every proposed ordinance shall be introduced in written or printed form, and shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; but general appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated. The enacting clause of all ordinances shall be, "Be it Enacted by the City of Winter Garden."
- (2) A proposed ordinance may be read by title, or in full, on at least two (2) separate days and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the City of Winter Garden and the notice shall state the date, time and place of the meetings, the title or titles of proposed ordinances, and the place or places within the municipality where such proposed ordinances may be inspected by the public and comply with applicable statutory notice requirements. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (3) After such hearing, the commission may finally pass such ordinance with or without amendment. The second passage of any ordinance shall be final and no further passage shall be required. All adopted ordinances shall become effective ten (10) days after adoption unless otherwise specified therein.
- (4) If a proposed ordinance is defeated either on the first or second reading, the same cannot be again reconsidered for a period of ninety (90) days.

Sec. 21. - Emergency measures.

The city commission by affirmative two-thirds (  $2/3$  ) vote of the total commission may enact ordinances dealing with emergencies at the meeting at which they are introduced. Any new and unexpected condition or occurrence of a nonrecurring nature that constitutes an immediate and serious menace to the public welfare of the city, shall be deemed an emergency. When no expenditure of city funds is entailed, emergency ordinances may be temporarily effective for a period of not more than fifteen (15) days from the date of their passage; but such ordinances shall be subject to all other provisions of this charter governing the enactment of ordinances, and if not finally adopted in the manner herein provided shall expire at the end of the time for which they are temporarily effective. An emergency ordinance authorizing the expending of funds by the city for other than a regular or recurring requirement, may be effective upon any date fixed in the ordinance by the city commission. Every emergency ordinance shall set forth specifically the conditions or occurrences that create the emergency, and shall be printed in full in the first issue of any newspaper thereafter published and of general circulation in the City of Winter Garden, in addition to the other publications required herein, and shall be captioned as an emergency ordinance.

Sec. 22. - Revision of ordinances.

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

Sec. 23. - Repeal of ordinances.

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

Sec. 24. - Investigations.

The city commission may make investigations into the affairs of the city and the conduct of any city department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

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

- (1) There shall be four (4) city commission districts. Each district shall be formed of compact, contiguous territory, and its boundary lines shall follow the center lines of streets whenever possible. The aggregate length of all district boundaries shall be as short as possible. The districts shall be approximately equal in population based upon the principal of equal and effective representation as required by the federal and state constitutions. Deviation in the population of a district when formed may not exceed five (5) percent of the average population for all commission districts.
- (2) A five (5) member districting commission shall be created to study and propose the readjustment of district boundaries when required herein. The five (5) member districting commission shall be appointed in the following manner. The mayor-commissioner shall appoint one (1) elector who resides in the city and each of the four (4) commissioners shall appoint one (1) elector who resides in their respective district. Residency of the districting commission members is to be determined from the most current voter registration rolls. Each appointment to the districting commission shall be confirmed by a majority vote of the city commission. Electors chosen shall not be employed by the city.
- (3) A districting commission shall be created upon the following circumstances:
  - (a) Within forty-five (45) days following official certification of the decennial census of the state; or
  - (b) Commencing on April 30, 2008, if the population of any district in the city becomes fifty (50) percent greater than the population of the smallest district prior to the decennial census of the state, unless such occurs within one (1) year of the decennial census. The city shall annually review the estimated population of each district.
- (4) Within one hundred and twenty (120) days of being created, the districting commission shall file with the official designated by the city commission, a report containing a recommended plan for adjustment of the commission district boundaries. The report shall include a map and description of the proposed districts and shall be drafted in the form of a proposed ordinance and upon filing shall be treated as an ordinance introduced by a commissioner.
- (5) It shall be the responsibility of the city manager to provide staff assistance and technical data to the districting commission.
- (6) The procedure for the city commission's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to this charter and general law, it must include both the map and a description of the recommended districts.
- (7) The commission shall adopt a redistricting ordinance at least ninety (90) days before the next regular city election, however if the commission fails to do so, the report of the districting commission shall go into effect at that time and have the effect of an ordinance.

ARTICLE III. - CITY MANAGER

Sec. 26. - Appointment of city manager; written contract.

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

Sec. 27. - Removal of city manager.

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

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

#### Sec. 28. - Qualifications.

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

#### Sec. 29. - Absence, disability or suspension.

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

#### Sec. 30. - Powers and duties.

The city manager shall be the chief executive officer of the city and responsible to the city commission for the management of all city affairs placed in the city manager's charge by or under this charter. Subject to Florida Statutes as from time to time amended, the city manager shall:

- (1) Appoint, suspend and remove all city employees and appointive administrative officers, except as otherwise provided by law, this charter, or city ordinances. The city manager may authorize any administrative officer to exercise these powers with respect to city employees and officers that are within, or subordinates of that administrative officer's department, office, or agency, subject to the city manager's direction and supervision;
- (2) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or law;
- (3) The city manager shall have the right to take part in discussion at City Commission meetings but shall not vote;
- (4) See that all laws, provisions of this charter and acts of the city commission, subject to enforcement by the city manager or by officers subject to the city manager's direction and supervision, are faithfully executed.
- (5) Prepare and submit the annual budget and capital program to the city commission, and implement the final budget as approved by the city commission to achieve the goals of the city;
- (6) Submit to the city commission and make available to the public, as of the end of the fiscal year, a complete report on the finances and administrative activities of the city for the preceding year;
- (7) Make such other reports as the city commission may require concerning operations;

- (8) Keep the city commission fully advised as to the financial condition and future needs of the city;
- (9) Make recommendations to the city commission, concerning the affairs of the city and facilitate the work of the city commission in developing policy;
- (10) Provide staff support services for the mayor-commissioner and commission members;
- (11) Assist the city commission to develop long term goals for the city and strategies to implement these goals;
- (12) Encourage and provide staff support for regional and intergovernmental cooperation;
- (13) Promote partnerships among commission, staff, and citizens in developing public policy and building a sense of community;
- (14) Have the authority to execute contracts and other documents on behalf of the city to carry out the city's business and to effectuate the directives of the city commission; and
- (15) Perform such other duties as are specified in this charter or may be required by the city commission not inconsistent therewith.

Sec. 31. - Reserved.

#### ARTICLE IV. - CITY DEPARTMENTS AND OFFICERS

Sec. 32. - Departmental organization.

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

Sec. 33. - City clerk.

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

- (1) Give notice of city commission meetings to its members and the public.
- (2) Keep the minutes of city commission proceedings and its committees.
- (3) Be the custodian of the city seal, all ordinances and resolutions and all records and papers of a general or permanent character pertaining to the affairs of the city.
- (4) Have the power to administer oaths.
- (5) Serve as the supervisor of municipal elections and be responsible for the conduct of such elections in the manner prescribed by state law, this charter, and city ordinances; provided, however, the city commission may delegate any or all such municipal election duties and/or authority to the County Supervisor of Elections as deemed necessary by the city commission.

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

Sec. 34. - City attorney.

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

Sec. 35. - Police department; chief of police.

- (1) There is hereby created in the city a police department for the preservation and enforcement of law and order within the city. Such police department shall be composed of a chief of police and as many subordinate officers and employees as the city manager may direct.
- (2) The chief of police will be hired and removed by the city manager with confirmation by a majority vote of the total city commission. The chief of police shall have exclusive control of the stationing and transfer of all officers and employees constituting the police force, subject to the approval of the city manager, or under such rules and regulations as may be prescribed by the ordinances of the city.
- (3) The chief of police shall perform such other duties appropriate to the office as may be imposed upon the chief by law, the ordinances of the city, and by direction of the city manager, consistent with this charter.

Secs. 36, 37. - Reserved.

#### ARTICLE V. - ELECTIONS

Sec. 38. - Referendum.

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

Sec. 39. - Conduct generally.

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

Sec. 40. - Party insignia on ballots; form to be as in state, county elections.

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

Sec. 41. - Qualification of candidates in districts; time; procedure; runoff election.

- (a) The city clerk, as the registration officer, shall designate the city commission by individual districts, with commissioners designated districts 1 through 4 and the mayor-commissioner designated district 5 elected at-large.
- (b) All candidates for office of the mayor-commissioner or commissioners shall register their names, together with the name of the district to which they aspire, with the city clerk. The period within which this registration must occur shall be determined by ordinance.

- (c) The winner of a district election shall be the candidate receiving a majority of the votes cast within the district general election, which majority of the votes shall mean greater than fifty (50) percent of the votes cast. If no candidate receives a majority of votes cast within a district general election, a runoff election shall be held on the date specified by ordinance and the two (2) candidates receiving the greatest votes within a district shall be the only candidates on the ballot for such runoff election. In the event of a tie during the runoff election, the winner of the runoff election shall be selected by a flip of a coin.
- (d) In the event there is only one (1) qualified candidate running for office of mayor-commissioner or commissioner, such qualified candidate shall be deemed the winner of the election without the need to hold the district general election for such district.

Sec. 42. - Fee; withdrawal.

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

Sec. 43. - General elections.

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

Sec. 44. - Special elections.

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

Sec. 45. - Write-in candidates.

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

Sec. 46. - Absentee voting.

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

Sec. 47. - Polling places.

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

Sec. 48. - Canvassing board.

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

office of the city clerk, adjourn as needed, and meet again in the subsequent days as provided by ordinance to count absentee ballots and provisional ballots.

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

Secs. 49—54. - Reserved.

#### ARTICLE VI. - INITIATIVE AND CITIZEN REFERENDUM

Sec. 55. - Initiative and referendum.

- (1) *Initiative.* The registered voters of the city shall have power to propose ordinances to the city commission and, if the city commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, comprehensive planning, zoning, or salaries of city officers or employees.
- (2) *Citizen Referendum.* The registered voters of the city shall have the power to require reconsideration by the city commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, comprehensive planning, zoning, or salaries of city officers or employees.

Sec. 56. - Commencement of proceedings.

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

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

Sec. 57. - Petitions.

- (1) *Number of signatures.* Initiative and citizen referendum petitions must be signed by registered voters of the city equal in number to at least ten (10) percent of the total number of voters registered to vote in the city in the calendar month prior to the month in which the petition is filed.
- (2) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

- (3) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (4) *Time for filing citizen referendum petitions .* Citizen referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.

Sec. 58. - Procedure for filing.

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

Sec. 59. - Action on petitions.

- (1) *Action by commission.* When an initiative or citizen referendum petition has been finally determined sufficient, the city commission shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.
- (2) *Submission to voters.* The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one (1) year from the date of the final city commission vote thereon. If no regular city election is to be held within the period prescribed in this subsection, the commission shall provide for a special election otherwise the vote shall be held at the same time as such regular election, except that the commission may, in its discretion, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

- (3) *Withdrawal of petitions.* An initiative or citizen referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least two-thirds ( 2/3 ) of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 60. - Results of election.

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

ARTICLE VII. - CHARTER REVIEW AND AMENDMENT

Sec. 61. - Charter review; amendment.

- (1) *Charter Review.* The city commission shall appoint a citizens' charter review committee to review this charter a minimum of once every eight (8) years and to report its proposed changes, if any, to the city commission.
- (2) *Charter Amendment.* This charter may be amended in accordance with general law.

ARTICLE VIII. - FISCAL MANAGEMENT

Sec. 62. - Fiscal year.

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

Sec. 63. - Submission of budget; budget message.

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

Sec. 64. - Budget.

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

Sec. 65. - Amendments after adoption.

- (1) *Supplemental appropriations.* If during the fiscal year the city manager certifies that there are available revenues for appropriation in excess of those estimated in the budget, the city commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- (2) *Emergency appropriations.* To address a public emergency affecting life, health, property or the public peace, appropriations may be made by an emergency ordinance. To the extent that there are no available unappropriated revenues or fund balances to meet such appropriations, the city commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time; but the emergency notes and renewals of any fiscal year shall be

paid no later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

- (3) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the city manager that the revenues or fund balances available will be insufficient to finance the expenditures for which appropriations have been authorized, the city manager shall report to the city commission, without delay, the estimated amount of the deficit, any remedial action taken by the city manager and the city manager's recommendations as to any other steps to be taken. The city commission shall then take such further action as it deems necessary to prevent or reduce any deficit and for that purpose it may by ordinance reduce one (1) or more appropriations.
- (4) *Transfer of appropriations.* At any time during the fiscal year, the city commission may by resolution transfer part or all of any unencumbered appropriation balance from one department, fund, service, strategy or organizational unit to the appropriation for other departments or organizational unit or a new appropriation. The city manager may transfer funds among programs within a department, fund, service, strategy or organizational unit and shall report transfers to the city commission in writing in a timely manner.
- (5) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, except to the extent that the debt is refinanced and less debt service is required, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Sec. 66. - Capital program.

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

Sec. 67. - Issuance of bonds.

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

Sec. 68. - Independent audit.

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

Sec. 69. - Reserved.

ARTICLE IX. - MISCELLANEOUS PROVISIONS

Sec. 70. - Severability clause.

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