

Meeting Date: 1/10/2012



Agenda Item #

8A

CITY COUNCIL AGENDA ITEM

Contact Name: Debbie Renner City Attorney: W.E. Reischmann
 Department/Contact # City Clerk City Manager: Jamie Croteau

Type of Item: Public Hearing Resolution
 Ordinance First Reading Discussion & Action
 Ordinance Second Reading Council Approval

Subject: Charter Review

BACKGROUND: At the December 13, 2011 regular meeting, Council requested staff to provide time on the agenda for a discussion on a possible review/revision of the City Charter. A copy of the Charter is attached for your review prior to the meeting.

You also requested staff's input regarding areas of the charter which have presented procedural issues. Attached is an outline of the various charter sections and notes highlighting some of the areas causing particular difficulties to staff.

RECOMMENDATIONS:

ATTACHMENTS: Charter
 Charter Outline

FINANCIAL IMPACT: Not applicable

Reviewed by City Attorney _____
 Reviewed by Finance Dept. _____
 Reviewed by: _____

1st Discussion Date: date.	2nd Discussion Date: date.	Third Discussion Date: date.	Other Dates: date.
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Charter Review Outline:

(Includes staff comments)

ARTICLE I. CREATION AND POWERS

Section 1.01 POWERS OF THE CITY

Section 1.02 CONSTRUCTION

Section 1.03 FORM OF GOVERNMENT

Section 1.04 INTERGOVERNMENTAL RELATIONS

Section 1.05 CORPORATE LIMITS

ARTICLE II. CITY COUNCIL

Section 2.01 CITY COUNCIL: POWERS AND COMPOSITION

Section 2.02 MAYOR

Section 2.03 VICE-MAYOR

Section 2.04 OATH OF OFFICE

Change date to first meeting following General Election”...

Section 2.05 COMPENSATION

Section 2.06 MEETINGS

Address issue of“...but the Council shall not enact new policies or create new obligations for the City during the interval between the date of the general election and the swearing-in”

Section 2.07 RULES & JOURNAL

Section 2.08 QUORUM AND VOTING

Section 2.09 QUALIFICATIONS, DISQUALIFICATIONS & FORFEITURE OF OFFICE

Section 2.10 RECALL

Section 2.11 FILLING OF VACANCIES

Section 2.12 EXTRAORDINARY VACANCIES

ARTICLE III. APPOINTED OFFICERS, BOARD & COMMITTEES

Section 3.01 COUNCIL APPOINTMENTS

(A) City Clerk

(B) City Manager

(d) "Attend **all** City Council meetings and have the right to take part in discussion but shall not vote. The City Manager shall notify the Council of any absences" *Need for clarification?*

(k) "Provide staff support services for the Mayor and Council Members"
Strike or Change to Clerk's office for staff support

(C) City Attorney

When required by **resolution** of the Council, he shall prosecute and defend, for and in behalf of the City, all civil complaints, suits and controversies in which the City is a party. *Not current practice.*

(D) Boards

ARTICLE IV. NOMINATIONS AND ELECTIONS

Section 4.01 COUNCIL SEAT DESIGNATIONS

Section 4.02 ELECTION & TERMS

(a) *Keep odd years? Low Turnout/High Expense*

Section 4.03 ELECTIONS PROCESS

Need consistency between names for elections: General/Runoff? Switch to Primary/General?
(Relates to Section 2.06)

Section 4.04. FORM OF BALLOTS

Often not enough time to adopt a resolution re: form of ballot in between 1st & 2nd election

Section 4.05 NOTICE OF ELECTION

Consistency in language Regular? General? *(Relates to 2.06 & 4.03)*

Section 4.06 QUALIFIED VOTERS

Section 4.07 NOMINATIONS BY PETITION

3rd paragraph "The Council, by ordinance, may establish a separate qualifying period for special elections....." Change to "in accordance with state law". Recommend striking current language.

Section 4.08 NONPARTISAN ELECTIONS

Section 4.09 HOLDING OR RUNNING FOR OTHER OFFICE

Section 4.10 POLITICAL ACTIVITIES

Section 4.11 STATE ELECTION LAW APPLICABLE

Section 4.12 CANVASSING BOARD

ARTICLE V. LEGISLATIVE POWERS

Section 5.01 MOTIONS, ORDINANCE AND RESOLUTIONS

“...those acts of the Council shall be by Ordinance which:

- (1) Establish a fine or penalty
- (2) Provide for the annual appropriation of funds (*recommend changing to Resolution*)
- (3) Adopt or amend an **administrative code** or establish, alter or abolish any City Department or agency
- (4) Levy taxes authorized by general law (*recommend changing to Resolution*)
- (5) Grant, renew or extend a franchise (*strike - overly burdensome*)
- (6) Authorize service or user charges for municipal services
- (7) Authorize the borrowing of money
- (8) Authorize the conveyance or lease of any lands of the City (*strike – overly burdensome*)
- (9) Amend or repeal any Ordinance previously adopted, except as otherwise provided herein.

*Recommend removing 2, 3, 5, 8 from Ordinance list, but may remain as either resolution or motion by Council.

Section 5.02 ENACTING CLAUSE

Section 5.03 PROCEDURE FOR PASSAGE OF ORDINANCES

Section 5.04 EMERGENCY ORDINANCES

Section 5.05 RECORDING OR POSTING OF ORDINANCES AND RESOLUTIONS
AFTER FINAL PASSAGE

Section 5.06 EFFECTIVE DATE

Section 5.07 INDEPENDENT ANNUAL EXAMINATION OF BOOKS AND RECORDS
Does not meet current practice or operational standards.

ARTICLE VI. ADMINISTRATIVE

Section 6.01 DIRECTION AND SUPERVISION OF ADMINISTRATION

Section 6.02 EMPLOYMENT OF FORMER ELECTED OFFICIALS

Section 6.03 CREATION OF CERTAIN DEPARTMENTS AND OFFICES

ARTICLE VII. BUDGET

With regard to Article 7, it is staff's recommendation with regard to state law that any redundancies be removed; to be replaced by references to state law as may be amended (preemption). Provisions in Article 7 that are administratively impractical or unworkable should be removed.

Section 7.01 PREPARATION AND SUBMISSION OF BUDGET

Section 7.02 BUDGET – A PUBLIC RECORD

Section 7.03 PUBLICATION OF NOTICE AND PUBLIC HEARING

Section 7.04 FINAL ADOPTION

Section 7.05 EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES

Section 7.06 ADMINISTRATION OF BUDGET
Does not meet current practices and timeframes are not feasible

Section 7.07 APPROPRIATION AMENDMENTS

Section 7.08 EMERGENCY APPROPRIATIONS

Section 7.09 UNENCUMBERED BUDGET BALANCE

Section 7.10 CITY DEPOSITORIES – *Confusing language*

ARTICLE VIII. INITIATIVE AND REFERENDUM

Section 8.01 AUTHORIZATION OF INITIATIVE AND REFERENDUM

Section 8.02 COMMENCEMENT OF PROCEEDINGS

Section 8.03 PETITIONS

Section 8.04 PROCEDURE FOR FILING

Section 8.05 REFERENDUM PETITIONS; SUSPENSION OF EFFECT OF ORDINANCE

Section 8.06 ACTION ON PETITIONS

Section 8.07 RESULTS OF ELECTION

ARTICLE IX. MISCELLANEOUS

Section 9.01 Separability

Section 9.02 Charter Amendment

ARTICLE X. TRANSITION SCHEDULE

Section 10.01 Ordinances Preserved

Section 10.02 Rights of Officers and Employees

Section 10.03 Pending Matters

Section 10.04 Deletion of Obsolete Schedule Items

Section 10.05 Existing Rights, Obligations, Duties, and Relationships

Section 10.06 Effective Date

Orange City Charter



Effective February 26, 2009
(Ordinance No. 360)

CITY CHARTER

CITY OF ORANGE CITY

VOLUSIA COUNTY, FLORIDA

ARTICLE I. CREATION AND POWERS

Section 1.01 POWERS OF THE CITY

The City of Orange City shall have all governmental, corporate and proprietary powers 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.

Section 1.02 CONSTRUCTION

The powers of the City shall be construed liberally in favor of the City, limited only by the Constitution, general law and specific limitations contained herein. It is the intent of this section to allow the City the broad exercise of the Home Rule Powers Act of 1973.

Section 1.03 FORM OF GOVERNMENT

The City of Orange City shall have the Council-City Manager form of government.

Section 1.04 INTERGOVERNMENTAL RELATIONS

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the State of Florida or any state civil division or agency, or the United States or any of its agencies.

Section 1.05 CORPORATE LIMITS

The corporate limits of the City of Orange City, Volusia County, Florida, shall consist of the boundaries of the City as established in the revised, amended Charter of Orange City, filed December 19, 1977, in the Secretary of State's office, State of Florida and, in addition thereto, all lands annexed by the City of Orange City, Florida, subsequent to December 19, 1977, and prior to the effective date of this Charter. All Ordinances of annexation of the City of Orange City heretofore adopted and as may be adopted subsequent to the effective date of this Charter are

hereby incorporated herein and the lands described in such Ordinances, together with the boundaries of the City as previously described, are hereby extended to the corporate limits of the City of Orange City, Florida.

ARTICLE II. CITY COUNCIL

Section 2.01 CITY COUNCIL: POWERS AND COMPOSITION

There shall be a City Council with all legislative powers of the City vested therein consisting of the Mayor and six (6) members. The Council shall be composed of one member elected by voters of the City at large and one member from each of five districts elected by the voters of those districts as provided in Article IV. The Mayor shall be elected by the voters of the City at large.

Section 2.02 MAYOR

The Mayor shall be the Presiding Officer of the Council. In addition, the Mayor shall:

- (a) Accept service of civil process on the City.
- (b) Serve as head of the City Government for ceremonial purposes and be responsible to the Governor in the event of an emergency declared by the President or Governor.
- (c) Perform other duties specified by the Council not otherwise in conflict with any other provision of this Charter.

Section 2.03 VICE-MAYOR

The Council shall elect from among its members a Vice-Mayor. Election of the Vice-Mayor shall be done annually at the first regular council meeting in November. The Vice-Mayor shall act as presiding officer during the absence or disability of the Mayor. Any Council Member may serve no more than two consecutive years as Vice Mayor.

Section 2.04 OATH OF OFFICE

The swearing-in of the newly elected Council members shall be on the day of the first regular or special meeting of the Council in November and shall be the first order of business.

Section 2.05 COMPENSATION

The Mayor and the members of the City Council shall receive compensation as established by Ordinance; but no ordinance may be adopted changing the salary if there is less than ninety days before the next election. In the event that the Mayor or Council members leave a meeting without consent of the majority, each shall forfeit \$100 from their monthly compensation. The Mayor and Council members shall be entitled to reimbursement of expenses allowable under general law for the conduct of the business of the City, which shall be budgeted each Fiscal Year.

Section 2.06 MEETINGS

The Council shall meet at such times as may be prescribed by Ordinance or Resolution, except that it shall meet regularly at least once each month. Members of the Council shall continue to serve until their successors are duly elected and sworn, but the Council shall not enact new policies or create new obligations for the City during the interval between the date of the general election and swearing-in of newly elected members of the Council. This provision shall not be construed as limiting the power of the Council to authorize payments for existing contracted commitments or agreements or to act in case of emergency according to the emergency Ordinance provision defined in this Charter. The Mayor, or any two members of the Council, may call special meetings of the Council upon at least twelve hours written notice to each member; and any other notification as approved by Council; and the public shall be informed by the posting of a Notice ~~and~~ in City Hall and the Orange City Post Office. Action taken at a special meeting shall be limited to the purpose for which the meeting was called.

Section 2.07 RULES AND JOURNAL

The Council shall determine its own rules and procedures. It shall require a journal or minutes of its proceedings to be kept, recorded, transcribed, and retained by the City Clerk. The journal or minutes shall be open to public inspection.

Section 2.08 QUORUM AND VOTING

Voting on Ordinances and Resolutions shall be by roll call of final action and shall be recorded in the journal. A majority of the Council membership shall constitute a quorum. The affirmative vote of four members of the Council shall be necessary to adopt any Ordinance or Resolution. All members in attendance, including the Mayor or presiding officer, shall vote on all Council actions, except when, with respect to any such member, there is a conflict of interest as defined under general law.

Section 2.12 EXTRAORDINARY VACANCIES

In the event that all members of the Council are removed by death, disability, law or forfeiture of office, the Governor shall appoint an interim Council without regard to districts.

**ARTICLE III. APPOINTED OFFICERS,
BOARDS & COMMITTEES**

Section 3.01 COUNCIL APPOINTMENTS

The City Council shall appoint, the following Officers, Boards & Committees:

- A. A City Clerk, appointed by and removed by the City Council by a motion requiring four affirmative votes, who shall give notice of meetings of the City Council, shall record, transcribe and keep the Minutes of its proceedings, and shall authenticate by signature and record in full in books kept for that purpose, all ordinances and resolutions passed by the Council. The City Clerk shall have the power to administer oaths.

The City Clerk shall also validate by signature, contracts made on behalf of the City and shall keep a list of outstanding City bonds, when and where payable, and the rate of interest they respectively bear.

The City Clerk is directly responsible to the City Council as the representative of the legislative branch of government, and may perform supplementary duties as assigned by Ordinance or Resolution of the City Council.

- B. A City Manager, appointed by and removed by the City Council by a motion requiring four affirmative votes, who possesses demonstrated knowledge, experience and leadership qualities commensurate with the office. The City Manager need not be a resident of the City at the time of appointment, and may reside outside the City while in office only with the approval of the Council.

The City Manager, as Chief Administrative Officer responsible to the City Council, shall:

- (a) Employ qualified personnel to fill funded positions and shall evaluate, promote and terminate same, based upon performance or budget constraints.

- (b) Fully inform the City Council of conditions affecting the city and recommend to the Council measures to benefit, improve or protect the best interest of the city.
 - (c) Prepare and present to City Council a year-end message on administrative accomplishments and state of the city.
 - (d) Attend all City Council meetings and have the right to take part in discussion but shall not vote. The City Manager shall notify the Council of any absences.
 - (e) See that all laws, provisions of this charter and acts of the City Council subject to enforcement by the City Manager, or by officers subject to the Manager's direction and supervision, are faithfully executed.
 - (f) Prepare and submit the annual budget and capital program to the City Council.
 - (g) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
 - (h) Make such other reports as the City Council may require concerning the operations of city departments, offices and agencies subject to the City Manager's direction and supervision.
 - (i) Keep the City Council fully advised as to the financial condition and future needs of the City.
 - (j) Make recommendations to the City Council concerning the affairs of the City.
 - (k) Provide staff support services for the Mayor and Council Members.
 - (l) Perform such other duties as are specified in this charter or may be required by the City Council.
- C. A City Attorney, appointed by and removed by the City Council by a motion requiring four affirmative votes, who shall act as the legal advisor to the municipality and its officers in matters relating to their official duties. When required to do so by resolution of the Council, he shall prosecute and defend, for and in behalf of the City, all civil complaints, suits and controversies in which the City is a party. He shall furnish the City Council, the Mayor, or the head of any department with his opinion on any question of law relating to their respective powers and duties. He shall perform such other professional duties as may be required of him by Council.

The City Attorney shall be a lawyer with experience in municipal law and shall be authorized to practice law in all courts of the state. His compensation shall be subject to approval by Council.

- D. In addition to the above, the Council shall establish such executive and advisory boards, commissions, or temporary or permanent ad hoc and study committees as may be required and shall set forth the rules and procedures by Ordinance or by Resolution.

ARTICLE IV. NOMINATIONS AND ELECTIONS

Section 4.01 COUNCIL SEAT DESIGNATIONS

City Council seats are hereby designated as Districts Number 1, 2, 3, 4, 5, and at large Council seat. Council Districts 1, 2, 3, 4, and 5 shall serve from each district respectively and the at large member shall serve at large. Each candidate for the office of Council Member shall declare at the time of qualification the seat to which such candidate seeks election.

Section 4.02 ELECTION AND TERMS

(a) The Mayor and all Council Members shall be elected for a four-year term. Elections shall be held in odd numbered years only. The Mayor and Council members designated as Districts 1, 2, and 3 shall be elected in one group; and Council members designated as Districts 4, 5, and at large shall be elected in the next group. In the 2009 election Council Members from Districts 4, 5 and the at large Member shall be elected. The Mayor and Council Members from Districts 1, 2, and 3, elected in 2011.

Upon the adoption of this Charter, Council seats 1, 2, 3, 4, 5 and 6 of the previous Charter shall become the Council Members for Districts 1, 2, 3, 4, 5, and at large Council Member, respectively, until the aforementioned elections of 2009 and 2011. During this transitional period no district residency requirement shall apply for Council serving at the time this charter is adopted. For qualifying beginning with the 2009 election, residency and all other requirements shall apply to District 4, 5, and at large Council Member. For qualifying beginning with the 2011 election, residency and all other requirements shall apply to District 1, 2, and 3.

(b) The City of Orange City shall be divided into five Council Districts by an ordinance of the City. This ordinance shall comply with the general laws governing district boundaries. Following each decennial census, the City Council shall by ordinance adjust the boundaries of the City Council districts according to general law. In addition, the City Council may, at its discretion, adjust the districts provided that any such adjustment will not take place less than one year before an election. The Council may appoint a special commission to develop district boundaries, use consulting firms specializing in the process and/or use such other public governmental resources as are available to develop a plan for districts and to adjust the district boundaries when required.

Section 4.03 ELECTIONS PROCESS

A regular election of candidates for the offices of City Council and Mayor, as applicable, shall be conducted each odd-numbered year, pursuant to that special act of the Legislature known as the Volusia County Uniform Election Act, Chapter 95-462, as amended by Chapter 98-506, and as may be amended in the future. All municipal elections shall be nonpartisan. A majority of the votes cast shall be required for election. In the event no candidate for any seat shall receive a majority of the votes cast, a runoff election shall be held the first Tuesday after the first Monday in November of each odd-numbered year, pursuant to that special act of the Legislature known as the Volusia County Uniform Election Act, Chapter 95-462, as amended by Chapter 98-506, and as may be amended in the future, and only the names of the two candidates receiving the largest number of votes for any seat shall be printed on the ballot for such runoff election.

Section 4.04 FORM OF BALLOTS

The Council, by Resolution, shall list candidates for Mayor and Council members and provide any other issues to be voted upon to be on the ballot, for any city election, as prescribed by the Supervisor of Elections. The listing of candidates will be in an alphabetized list on the ballot. A charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described Charter Amendment be adopted?" Immediately below such question shall appear, in the following order, the word "for" and also the word "against".

Section 4.05 NOTICE OF ELECTION

The Council shall, by Resolution, provide official notice to the Supervisor of Elections at least forty-five days prior to any regular or special election, and shall certify the form of ballot to the Supervisor of Elections at least twenty-one days prior to any election.

Section 4.06 QUALIFIED VOTERS

Any elector shown on the voter registration books to be a resident of the City of Orange City, Florida, shall be qualified to vote in a municipal election. Electors may vote for the at large Council Member, the Mayor and for the District Council Member representing the district where the elector resides.

Section 4.07 NOMINATIONS BY PETITION

Candidates for the office of Mayor or Council Member shall qualify for such office by filing a written petition with the Clerk in the following manner:

A prospective candidate shall file with the Clerk a notarized statement of intention to be a candidate for a specified Council seat or the office of Mayor, whereupon the Clerk, without charge, shall provide forms for nomination by a petition to be signed by a minimum of twenty-five qualified electors of the city. Qualified electors signing the petition for the district council seats must reside in that district. Only petitions on official forms provided by the Clerk for a specific office shall be accepted for validation, and such forms shall include spaces for the printed name, signature, address, and birthdate or voter registration number of each elector and a sworn affidavit executed by the circulator of each page of the petition stating that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. The signature shall be executed in ink or indelible pencil.

Petitions shall be filed with the Clerk during the period specified for qualifying in Section 4.03 above. The Council, by ordinance, may establish a separate qualifying period for special elections, provided such qualifying period covers a minimum of seven days and is otherwise consistent with general law. The report of the Supervisor of Elections shall be used by the Clerk to determine the sufficiency of each petition, and the Clerk shall notify each candidate of the results thereof.

Section 4.08 NONPARTISAN ELECTIONS

All qualifications and elections for the office of Mayor or City Council Member shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot. Reference in general law to political parties and party primaries shall not be applicable in the elections of the Mayor and Council members.

Section 4.09 HOLDING OR RUNNING FOR OTHER OFFICE

- (a) No person may be a candidate for more than one office in any regular or special election.
- (b) No person may, at the same time, hold more than one office, elected or appointed, in the government of the City.
- (c) No member of the Council or the Mayor shall hold any other non-elected City office or City employment during the term for which they were elected. This same prohibition shall extend to spouses, parents and children of the Mayor or members of the Council.

Section 4.10 POLITICAL ACTIVITIES

No city employee shall knowingly or willfully make, solicit or receive any contribution to the campaign funds of any political party or committee to be used in a City election or to campaign funds to be used in support of or opposition to any candidate for election to City office or City

ballot issue. Further, no City employee shall knowingly or willfully participate in any aspect of any political campaign on behalf of or opposition to any candidate for City office. This section shall not be construed to limit any person's right to exercise rights as a citizen to express opinions or to cast a vote nor shall it be construed to prohibit any person from active participation in political campaigns at any other level of government.

Section 4.11 STATE ELECTION LAW APPLICABLE

All general laws of Florida relating to elections and the registration of persons qualified to vote therein which are not in conflict with this Charter shall be the same for the City of Orange City, and are hereby adopted as parts hereof.

Section 4.12 CANVASSING BOARD

The members of the Council not up for re-election shall serve as the canvassing board when necessary for any special or regular election, and shall accompany the City Clerk to the Supervisor of Elections Office for the tabulation of the ballots. The Council shall certify the results of the election provided by the Supervisor of Elections Office at the first regular or special council meeting following the election.

ARTICLE V. LEGISLATIVE POWERS

Section 5.01 MOTIONS, ORDINANCES AND RESOLUTIONS

The City Council shall act only by motion, Ordinance or Resolution. All Ordinances and Resolutions, except appropriation Ordinances, adopted by the Council shall be confined to one (1) subject which shall be clearly stated in the title thereof, provided, however, that no Ordinance or Resolution shall be held invalid because of defective title. All appropriation Ordinances shall be confined to the subject of appropriations and finance. In addition to other acts required by law or by specific provisions of this Charter to be done by Ordinance, those acts of the Council shall be by Ordinance which:

- (1) Establish a fine or penalty;
- (2) Provide for the annual appropriation of funds;
- (3) Adopt or amend an administrative code or establish, alter or abolish any City Department or agency;

- (4) Levy taxes authorized by general law;
- (5) Grant, renew or extend a franchise;
- (6) Authorize service or user charges for municipal services;
- (7) Authorize the borrowing of money within the limitations established in the Constitution and general law;
- (8) Authorize the conveyance or lease of any lands of the City;
- (9) Amend or repeal any Ordinance previously adopted, except as otherwise provided herein.

Section 5.02 ENACTING CLAUSE

The enacting clause of all Ordinances shall be, "Be It Enacted By The Council Of The City of Orange City, Florida".

Section 5.03 PROCEDURE FOR THE PASSAGE OF ORDINANCES

Every Ordinance shall be introduced in writing and read by title and, after passage of first reading shall be noticed in a newspaper of general circulation in the municipality in accordance with the requirements of general law. Ordinances which rezone specific parcels of private real property or amends the land use plan shall be enacted pursuant to the procedures and requirements of general law. The second passage of any Ordinance pursuant to this Charter shall be final, and no further passage shall be required.

Section 5.04 EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one (1) or more emergency Ordinances, but such Ordinances shall not levy taxes; grant, renew or extend a franchise; authorize service or user charges for any municipal services; authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter; or enact or amend a land use plan or rezone private real property.

An emergency Ordinance shall be introduced in the form and manner prescribed for Ordinances generally, except that it shall be plainly designated in the preamble as an emergency Ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

An emergency Ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five (5) members of the Council shall

be required for adoption. After its adoption the Ordinance shall be published and printed as prescribed in Section 5.03 and 5.05. Emergency Ordinances shall become effective upon adoption or at such other time as may be specified in the Ordinance.

Every emergency Ordinance, except emergency appropriations, shall automatically stand repealed as of the sixty-first (61st) day following the date on which it was adopted. This shall not prevent re-enactment of the Ordinance under regular procedures, or if the emergency still exists, in the same manner specified in this section for the adoption of emergency Ordinances.

Section 5.05 RECORDING OR POSTING OF ORDINANCES AND RESOLUTIONS AFTER FINAL PASSAGE

Every Ordinance and resolution shall, upon its final adoption, be recorded by the City Clerk, and shall be authenticated by the signatures of the Mayor and the City Clerk. Every Ordinance and resolution shall, upon its final disposition, be available at the City Clerk's office and the city's internet site if operational.

Section 5.06 EFFECTIVE DATE

All Ordinances and Resolutions adopted by the Council shall become effective from the date of passage, unless otherwise provided therein.

Section 5.07 INDEPENDENT ANNUAL EXAMINATION OF BOOKS AND RECORDS

The City Council shall provide for an independent annual audit of city accounts and may provide for more frequent audits as it deems necessary. An independent certified public accountant or firm of such accountants shall make such audits. Such audits should be performed in accordance with the Generally Accepted Auditing Standards (GAAS) and Generally Accepted Governmental Auditing Standards (GAGAS).

The Council shall:

- (1) Lead the process of selecting an independent auditor;
- (2) Direct the work of the independent auditor as to the scope of the annual audit and any matters of concern with respect to internal controls.

The Council shall, using competitive bidding, designate such accountant or firm annually, or for a period not to exceed five years, but the designation for any particular fiscal year shall be made no later than 60 days after the beginning of such fiscal year. The standard for independence is that the auditor must be capable of exercising objective and impartial judgment on all issues encompassed within the audit engagement. No accountant or firm may provide any other

services to the City during the time it is retained to provide independent audits to the City. The City Council may waive this requirement by a majority vote at a public hearing. If the state of Florida makes an audit, the Council may accept it as satisfying the requirements of this section.

ARTICLE VI. ADMINISTRATIVE

Section 6.01 DIRECTION AND SUPERVISION OF ADMINISTRATION

Except for the purpose of inquiries and investigations, the Council or its members shall deal with City Officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately. Any such dictation, orders or requests or interference upon the part of a member of the City Council with the administration of the City shall be cause for removal from office as provided for in Section 2.09 of this charter.

The Council and/or its individual members may closely scrutinize, by questions and personal observations, all aspects of City government operations so as to obtain independent information to assist the members in the formation of sound policies to be considered by the Council. It is the express intent of this Charter, however, that recommendation for the improvement of City government operations by individual Council members be made to and through the City Manager so that the City Manager may coordinate efforts of all departments to achieve the greatest possible savings through the most efficient and sound means available.

Section 6.02 EMPLOYMENT OF FORMER ELECTED OFFICIALS

No former elected City Official shall hold any compensated appointive City Office or employment until one (1) year after the expiration of the term for which he/she was elected.

Section 6.03 CREATION OF CERTAIN DEPARTMENTS AND OFFICES

There shall be a Police Department, a Fire Department, and a Public Works Department. Other Departments may be created, by Ordinance, as needed.

ARTICLE VII. BUDGET

Section 7.01 PREPARATION AND SUBMISSION OF BUDGET

Prior to June 1st of each year, the Council and City Manager shall conduct a minimum of one public meeting to collect information as to what the citizens of Orange City suggest as a priority for spending in the next fiscal year. No later than August 1st of each year, unless otherwise approved by Council, the City Manager shall submit to the Council a budget and a separate budget message in the form and with the contents prescribed by this Article, in accordance with general law.

The budget message shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the City and all capital programs. It shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for changes from the previous year in costs and revenue items, and shall explain the major changes in financial policy.

The budget shall contain a complete financial plan for the budget year. It shall present in tabular form:

- (1) detailed estimates of all anticipated revenues applicable to proposed expenditures;
- (2) all proposed expenditures.

The total of such anticipated revenue shall be at least equal to the total of such proposed expenditures.

Section 7.02 BUDGET - A PUBLIC RECORD

The budget and budget message and all supporting schedules shall be a matter of public record in the office of the City Clerk, and shall be open to public inspection by anyone during the regular office hours of the Clerk.

Section 7.03 PUBLICATION OF NOTICE AND PUBLIC HEARING

Publication of notice and public hearings on the Budget shall be in compliance with the provisions of general law, now in effect or as amended hereafter.

Section 7.04 FINAL ADOPTION

The budget shall be finally adopted by September 30th of each calendar year. The fiscal year will begin on October 1 and end on September 30. Should the budget not be adopted by the stipulated date, the Council by Resolution may direct that the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by Resolution each fifteen (15) days with all items in it prorated accordingly, until such time as the budget for the ensuing fiscal year is officially adopted, providing there is no conflict with general law.

Section 7.05 EFFECTIVE DATE OF BUDGET; CERTIFICATION; COPIES

Upon the final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the Mayor and City Clerk and filed in the office of the City Clerk. The budget so certified shall be reproduced and sufficient copies thereof shall be made available for use of all departments and offices, and for the use of interested persons.

Section 7.06 ADMINISTRATION OF BUDGET

From the effective date of the budget the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes named therein.

The City manager shall prepare a mid-year budget review six months from the date of the final adoption. The mid-year budget review is subject to review and modification by the City Council.

It shall be the duty of the City Manager to prepare a report of all items affecting the budget covering each month, to be presented by the second regularly scheduled meeting for the following month.

Section 7.07 APPROPRIATION AMENDMENTS

- (a) Supplemental appropriations. If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the City Council may, by resolution, make supplemental appropriations for the year in an amount not to exceed such excess.
- (b) Reduction of appropriations. If at any time during the year, it appears probable to the City Manager that the revenues available will be insufficient to meet the amount

appropriated, he or she shall report same to the City Council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps that should be taken. The City Council shall then take such further actions it deems necessary to prevent or minimize any deficit and, for that purpose, the City Council may by resolution reduce one or more appropriations accordingly.

- (c) Transfer of appropriations. At any time during the fiscal year, the City Manager may transfer all or part of any unencumbered appropriation balance within a department office or agency of the City to other programs within the same department, office or agency. And, upon written request of the City Manager, the City Council may by resolution, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 7.08 EMERGENCY APPROPRIATIONS

Subject to the procedure for the passage of Emergency Ordinances stated in Article V, 5.04 of this Charter, the Council may make emergency appropriations. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by emergency Ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Section 7.09 UNENCUMBERED BUDGET BALANCE

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

Section 7.10 CITY DEPOSITORIES

All funds of the City shall be deposited in and withdrawn from such banks or depositories as may be directed from time to time by Resolution of the Council. All monies drawn from any depository shall be by warrant, check, electronic transfer or other method authorized by the City Manager and City Clerk. In the absence of either, or both, the City Manager and the Clerk, checks or warrants shall be signed by the Mayor and one other member of the Council.

ARTICLE VIII. INITIATIVE AND REFERENDUM

Section 8.01 AUTHORIZATION OF INITIATIVE AND REFERENDUM

- (a) **INITIATIVE** The qualified voters of the City shall have power to propose Ordinances and Resolutions to the Council and, if the Council fails to adopt an Ordinance or Resolution so proposed without change in substance, to adopt or reject it at a City election, provided that such power shall not extend to Federal, State, or County mandates, the budget or capital program or any emergency Ordinance or any Ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees, Comprehensive Plan and amendments thereto, rezoning(s), annexation(s), and City contracts.

- (b) **REFERENDUM** The qualified voters of the City shall have power to require reconsideration by the Council of any adopted Ordinance, and if the Council fails to repeal an Ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to Federal, State, or County mandates, the budget or capital program or any Emergency Ordinance or any Ordinance relating to appropriation of money, levy of taxes or salaries of City officers or employees, Comprehensive Plan and amendments thereto, rezoning(s), annexation(s), and City contracts.

Section 8.02 COMMENCEMENT OF PROCEEDINGS

A minimum of five qualified voters may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative Ordinance or citing the Ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Clerk may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

Section 8.03 PETITIONS

- (a) **NUMBER OF SIGNATURES:** Initiative and referendum petitions for Ordinances must be signed by fifteen percent (15%) of the qualified voters registered to vote at the last regular City election.

- (b) **FORM AND CONTENT:** All papers of a petition shall be uniform in size and style. The person signing shall include their printed name and address, legible, in ink or indelible pencil. Petitions shall contain or have attached thereto throughout their circulation the full text of the Ordinance proposed or sought to be reconsidered.

- (c) **AFFIDAVIT OF CIRCULATOR:** Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be 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.

- (d) **TIME FOR FILING REFERENDUM PETITIONS:** Referendum petitions must be filed within thirty calendar days after adoption by the Council of the Ordinance sought to be reconsidered. Upon filing of a petition the City Clerk shall immediately provide due notification to all affected parties and City Officials.

Section 8.04 PROCEDURE FOR FILING

- (a) **CERTIFICATE OF CLERK; AMENDMENT:** Within twenty calendar days after the initiative petition is filed the Clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by certified mail. 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 with the council within two days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate.

Within twenty calendar 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 certified mail. If a petition or amended petition is certified insufficient, or if a petitioners' committee does not elect to amend or request Council review under subsection (b) of this section within the time required, the Clerk shall promptly present the certificate to the council and the certificate shall then be a final determination as to the insufficiency of the petition.

- (b) **COUNCIL 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 days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

Section 8.05 REFERENDUM PETITIONS; SUSPENSION OF EFFECT OF ORDINANCE

When a referendum petition is filed with the Clerk the Ordinance sought to be reconsidered shall be suspended from taking effect from the original effective date of the ordinance. The City Clerk shall immediately provide due notification to all affected parties and City Officials. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition; or
- (2) The petitioners' committee withdraws the petition; or
- (3) The Council repeals the Ordinance; or
- (4) After a vote of the City on the Ordinance has been certified.

Section 8.06 ACTION ON PETITIONS

- (a) **ACTION BY COUNCIL:** When an initiative or referendum petition has been finally determined sufficient, the Council may in its discretion consider the proposed initiative Ordinance in the manner provided in Article IV or reconsider the referred Ordinance by voting its repeal. The Council may follow the procedures set forth in this Charter or as otherwise provided by law. If the Council fails to adopt a proposed initiative Ordinance without any change in sixty days, it must submit the proposed or referred Ordinance to the voters of the City in a special election if no regular election is scheduled to be held within sixty days.
- (b) **WITHDRAWAL OF PETITIONS:** An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the Clerk a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 8.07 RESULTS OF ELECTION

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

- (b) **REFERENDUM:** If a majority of the qualified electors voting on a referred Ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE IX. MISCELLANEOUS

Section 9.01 SEPARABILITY

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of a section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of a section to which such holding shall directly apply.

Section 9.02 CHARTER AMENDMENT

This Charter may be amended in two (2) ways:

- (a) **INITIATION BY ORDINANCE:** The Council may, as provided by law, amend or propose amendments to any part or all of this Charter, except prescribing boundaries, and upon passage of the initiating Ordinance shall place the proposed amendment to the vote of the electors at the next general election held within the City or at a special election called for that purpose. All rights granted to municipalities under the "Municipal Home Rule Powers Act" are hereby preserved as if the adoption of this Charter was prior to July 1, 1973.

Amendment of boundaries resulting from annexation done in accordance with general law shall be by Ordinance of the Council and shall not be subject to a vote of the electors, except as provided by general law.

- (b) **INITIATION BY PETITION:** The electors of the City may propose amendments to this Charter by petition signed by at least 10% of the qualified voters registered to vote at the last regular City election, in accordance with general law.

ARTICLE X. TRANSITION SCHEDULE

Section 10.01 ORDINANCES PRESERVED

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

Section 10.02 RIGHTS OF OFFICERS AND EMPLOYEES

Nothing in the Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are City Officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof, until successors are elected.

Section 10.03 PENDING MATTERS

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the City shall continue except as modified pursuant to the provisions of this Charter.

Section 10.04 DELETION OF OBSOLETE SCHEDULE ITEMS

The Council shall have the power, by Ordinance, to delete from this Article X any section, including, this one, when all events to which the section to be deleted is or could become applicable have occurred.

Section 10.05 EXISTING RIGHTS, OBLIGATIONS, DUTIES, AND RELATIONSHIPS

All rights, obligations, duties and relationships now existing by law or agreement between the City and other governmental units shall be unaffected and shall remain in full force and effect.

Section 10.06 EFFECTIVE DATE

The effective date of this Charter Amendment shall be when filed with the Secretary of State, State of Florida.