

**ORDINANCE NO. 19 - 1671**

**AN ORDINANCE OF THE CITY OF HAINES CITY, FLORIDA; RELATING TO ONE (1) PROPOSED CHARTER AMENDMENT FOR SUBMISSION TO REFERENDUM; PROVIDING FOR INCLUSION OF RECITALS; PROVIDING FOR AMENDMENTS TO SECTION 8.04 OF THE CITY CHARTER; PROVIDING FOR ONE (1) BALLOT TITLE; PROVIDING FOR ONE (1) BALLOT QUESTION; PROVIDING FOR CITY CLERK TO OBTAIN SPANISH LANGUAGE TRANSLATION; PROVIDING FOR APPROVAL BY THE MAJORITY OF ELECTORS VOTING ON THE APRIL 7, 2020 GENERAL MUNICIPAL ELECTION BALLOT; PROVIDING FOR A NOTICE OF AN ADVERTISEMENT OF THE REFERENDUM ELECTION TO BE PUBLISHED IN ACCORDANCE WITH THE STATE OF FLORIDA ELECTION CODE; PROVIDING THAT UPON ADOPTION OF THIS ORDINANCE THE ONE (1) PROPOSED CHARTER AMENDMENT SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY OF HAINES CITY, FLORIDA, ON THE APRIL 7, 2020 GENERAL MUNICIPAL ELECTION BALLOT AND SHALL BECOME EFFECTIVE AS PROVIDED BY LAW; PROVIDING FOR THE CITY CLERK TO CONFORM AND CODIFY THE CHARTER AMENDMENT TO THE CHARTER IF APPROVED; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR AN EFFECTIVE DATE OF THE PROPOSED CHARTER AMENDMENT.**

**WHEREAS**, Chapter 166, Florida Statutes, as amended, provides for a methodology of Charter amendments supplementary to and not in conflict with the Charter of the City of Haines City, Florida ("City"); and

**WHEREAS**, Chapter 166, Florida Statutes, as amended, provides that such an amendment may be submitted to a referendum vote by the City Commission through the adoption of an Ordinance calling for such a referendum election; and

**WHEREAS**, Section 166.031, Florida Statutes, (Charter Amendments), states, in part, as follows:

"(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law."; and

**WHEREAS**, Section 11.01(a) (Charter Amendment – Initiation by ordinance) of Article XI of the City Charter of the City of Haines City provides that the City Commission may propose amendments to the City Charter by initiating an ordinance which shall place the proposed amendment to a vote of the electors at the next general election held within the city; and

**WHEREAS**, the City Commission previously authorized the establishment of a Charter Review Committee to engage in a comprehensive review of the City Charter; and

**WHEREAS**, Section 8.04 – City Clerk of Article VIII – ADMINISTRATIVE BRANCH of the existing City Charter states as follows (including the proposed amendment to the Charter provision shown as ~~strikethrough~~ and underline revisions):

Sec. 8.04. – City Clerk.

(a) The city commission shall appoint a city clerk, who shall be the administrative head of the city clerk's office under the direction and supervision of the city commission, and he or she shall hold office at the pleasure of the city commission. He or she shall be chosen solely on the basis of his or her executive and administrative qualifications.  
~~The city commission shall appoint a city clerk who shall be the custodian of the seal of the city, and of all records and papers of a general character pertaining to the affairs of the municipality. The city clerk shall attend all meetings of the city commission, and shall keep a journal of its proceedings, the correctness of which proceedings, as entered in such journal, shall be certified to after each meeting by the clerk's signature, and by the signature of the presiding officer of the city commission.~~

(b) The City Clerk shall:

(1) Appoint and, when he or she deems it necessary for the good of the city, suspend, or remove, or discipline all subordinate city employees within the city clerk's office provided for by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted by the city commission.

(2) The city clerk shall have power to administer oaths and to certify, under seal of the city, true copies of all minutes, journal entries and other records of the city. In addition to the powers and duties especially imposed under this Charter, the city clerk shall perform such other duties as may be required by the general laws of the State of Florida, or by ordinance or resolution of the city commission, ~~or by direction of the city manager~~ not inconsistent with the Charter or with any ordinance or resolution passed by the city commission.

(3) The city clerk shall be the custodian of the seal of the city, and of all records and papers of a general character pertaining to the affairs of the municipality. The city clerk, or his or her designee, shall attend all meetings of the city commission, and shall keep a journal of its proceedings, the correctness of which proceedings, as entered in such journal, shall be certified to after each meeting by the clerk's signature, and by the signature of the presiding officer of the city commission.

**WHEREAS**, the City Commission has publicly reviewed, considered, and directed that this Ordinance be prepared and that the appropriate one (1) Charter Referendum question be included herein and submitted to the qualified electors of the City of Haines City, Florida, at the April 7, 2020, General Municipal Election; and

**WHEREAS**, in order to comply with the deadline established by the Polk County Supervisor of Elections to include the Referendum Questions on the ballot for the April 7, 2020 General Municipal Election, the City Clerk must provide the Polk County Supervisor of Elections with a copy of the ballot language no later than February 21, 2020.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA, THAT:**

**SECTION 1.** The foregoing Recital clauses are hereby ratified as being true and correct and incorporated herein by this reference.

**SECTION 2.** The proposed Charter amendments to Section 8.04 of Article VIII – ADMINISTRATIVE BRANCH – are depicted in ~~strike through~~ and underline revisions within the Recital clause above pertaining to Section 8.04.

**SECTION 3.** Ballot Titles.

- A. The Ballot Title for the ballot question related to Section 8.04 (City Clerk) of Article VIII – ADMINISTRATIVE BRANCH of the City Charter shall be as follows:

CITY CLERK

**SECTION 4.** Ballot Question:

The following one (1) question shall be placed on the ballot for consideration by the qualified electors of the City of Haines City, Florida, at the April 7, 2020, General Municipal Election in Polk County, Florida. The one (1) election ballot question shall read as follows:

**QUESTION ONE:** Section 8.04 – (City Clerk) of Article VIII – ADMINISTRATIVE BRANCH, City Charter.

**This proposed amendment would authorize the city clerk to appoint, suspend, remove, or discipline all subordinate city employees within the city clerk's office.**

**Shall the above described Amendment be adopted?**

YES \_\_\_\_

NO \_\_\_\_

**SECTION 5.** That the City Clerk is hereby authorized and directed to obtain true and accurate Spanish language translations of the Ballot Title and Ballot Question set forth in this Ordinance, and provide such Spanish language translations to the Polk County Supervisor of Elections in conjunction with a copy of this Ordinance.

**SECTION 6.** The City Clerk of the City of Haines City is hereby authorized and directed to advertise the referendum election contemplated herein in accordance with the State of Florida Election Code, as well as the City's Charter and Code of Ordinances.

**SECTION 7.** That should a majority of electors voting on the above-referenced referendum election vote "YES" on the one (1) ballot questions set forth herein, thereby approving such respective ballot question, the revised charter language related to such approved ballot question shall become a part of the Charter of the City of Haines City, Florida.

**SECTION 8.** The upon passage of this initiating Ordinance, the one (1) proposed Charter amendment (the Ballot Title and Ballot Question set forth herein) shall be placed on the ballot for consideration by the qualified electors of the City of Haines City, Florida, at the April 7, 2020, General Municipal Election in Haines City, Polk County, Florida and such approved Charter amendment shall become effective as provided by law.

**SECTION 9.** That the City Clerk is hereby directed to ensure that the appropriate numbers and/or letters are affixed to the Articles and Sections of the Charter in order to conform the Charter to the respective amendment, if approved.

**SECTION 10.** Repeal of Ordinances in Conflict Herewith. All other ordinances of the City of Haines City, Florida, or portions thereof which conflict with this or any part of this Ordinance are hereby repealed.

**SECTION 11.** Severability. The provisions of this Ordinance are severable; and, if any section, sentence, clause, or phrase is for one reason held to be unconstitutional, invalid or ineffective, this holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Commission's intent that it would have passed the valid portions of this Ordinance without inclusion of any invalid portion or portions.


**SECTION 12.** Effective Date of Ordinance. This Ordinance shall become effective immediately upon its passage and adoption.

**SECTION 13.** Effective Date of Proposed Charter Amendment. The proposed Charter amendment set forth herein will take effect upon the affirmative vote of a majority of those electors voting in the April 7, 2020 election in the City of Haines City, Florida.

**INTRODUCED AND PASSED** on first reading in regular session of the City Commission of the City of Haines City, this 19th day of December 2019.

**ATTEST:**

**APPROVED:**

  
Linda Bourgeois, BAS, MMC,  
City Clerk

  
Morris L. West, Mayor-Commissioner


**APPROVED AS TO FORM AND CORRECTNESS:**


  
Fred Reilly, City Attorney

**PASSED AND ENACTED** on second and final reading by the City Commission of the City of Haines City, Florida, at regular session this 16<sup>th</sup> day of January 2020.

**ATTEST:**

**APPROVED:**

  
Linda Bourgeois, BAS, MMC,  
City Clerk

  
Morris L. West, Mayor-Commissioner

**APPROVED AS TO FORM AND CORRECTNESS:**

  
Fred Reilly, City Attorney

