

ORDINANCE 1380-17

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE ALFRED, FLORIDA, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF LAKE ALFRED, BY ADDING SECTION 26-7 RELATING TO PROCEDURES FOR THE DRAWING OF LOTS TO DETERMINE PERSON(S) ELECTED TO THE CITY COMMISSION IN THE EVENT OF A TIE; AND PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166 of the Florida Statutes, the City of Lake Alfred possesses the police powers to enact ordinances in order to protect the health, safety, and welfare of the City's citizens and residents; and

WHEREAS, pursuant to Section 100.181 of the Florida Statutes, the person receiving the highest number of votes cast in a general or special election for an office shall be elected to the office; and

WHEREAS, pursuant to Section 100.181 of the Florida Statutes, in the event two or more persons receive an equal and highest number of votes for the same office, such persons shall draw lots to determine who shall be elected to the office; and

WHEREAS, on November 3, 2014, the City Commission adopted Ordinance 1342-14 which amended Article IV, Section 4.05(c), of the Charter of the City of Lake Alfred, Florida, to require all ties in and/or for municipal elections to be decided by a drawing of lots; and

WHEREAS, on April 7, 2015, the citizens of the City of Lake Alfred, Florida, voted on and approved the amendment(s) to Article IV, Section 4.05(c), of the Charter of the City of Lake Alfred, Florida, requiring all ties in and/or for municipal elections to be decided by a drawing of lots; and

WHEREAS, pursuant to the amendment(s) to Article IV, Section 4.05(c), of the Charter of the City of Lake Alfred and Florida law, rather than holding a second election in the event of a tie vote between candidates running for a commission place seat, a tie vote for a municipal election will be decided by a drawing of lots in accordance with procedures to be established by Ordinance of the City Commission; and

WHEREAS, upon review, the City Commission desires to amend its Code of Ordinances to add Section 26-7 relating to procedures for the drawing of lots in order to determine person(s) elected in the event of a tie for elections within the City of Lake Alfred, Florida; and

WHEREAS, the City Commission for the City of Lake Alfred, Florida, finds and declares that this Ordinance is in the best interest of the public health, safety and welfare of the citizens and residents of the City of Lake Alfred, Florida, and that it advances a significant and important governmental interest.

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Lake Alfred, Florida, that this Ordinance is hereby passed for the protection and welfare of the citizens of Lake Alfred, and that:

SECTION 1. AMENDMENT. Chapter 26 of the Code of Ordinances for the City of Lake Alfred is hereby amended by adding a new Section 26-7 to the Code of Ordinances regarding establishing procedures for the drawing of lots in the event of a tie vote for the office of a city commission place seat, as follows:

Sec. 26-7. – Determination of person(s) elected and drawing of lots in the event of a tie vote.

- (a) Subject to Florida law and applicable provisions of the Charter and Code of Ordinances of the City of Lake Alfred, Florida, the person receiving the highest number of votes cast in a general or special election for a city commission place seat shall be elected to the office. Provided however, in the event two or more persons receive an equal and highest (in the event of three (3) or more candidates) number of votes for the same city commission place seat in a general or special election, the tie shall be determined by the drawing of lots.
- (b) The drawing of lots shall be conducted by the city clerk in the presence of the City's canvassing board at a duly noticed and held meeting of the City's canvassing board.
- (c) For purposes of this section, in the event two (2) persons receive an equal and highest number of votes for the same city commission place seat, the "drawing of lots" shall mean a coin toss for which the persons involved in the tie will have an equal chance of being selected.
- (d) For purposes of subsection (c), the drawing of lots shall be conducted by the city clerk, as follows:
 - (1) The city clerk shall, at any time during the meeting of the City's canvassing board and in the presence of the City's canvassing board members present at the meeting, provide the persons involved in the tie with a piece of paper (identical in size, color, shape and texture); and
 - (2) Upon receipt of the piece of paper from the city clerk, the persons involved in the tie shall, in the presence of the city clerk and the City's canvassing board members present at the meeting, write their name on the piece of paper provided by the city clerk using the same pen or pencil; and
 - (3) Upon witnessing the persons involved in the tie write their names on the pieces of paper, the city clerk shall provide a box and/or container and instruct said persons to place the pieces of paper into the box and/or container without bending, folding, and/or otherwise physically altering their piece of paper; and
 - (4) After the persons involved in the tie have placed their piece of paper in the box and/or container, the city clerk shall choose a member of the City's canvassing board at random and, while holding the box and/or container, instruct the chosen member to reach into the box and/or container without looking into the box and/or container and remove one (1) piece of paper; and
 - (5) The city clerk shall thereafter read the name written on the piece of paper selected into the record and instruct the person whose name was read into the record that he/she shall call the coin toss; and

- (6) The city clerk shall, prior to conducting the coin toss, show to the persons involved in the tie the coin to be used in and/or for the coin toss and identify which side represents "heads" and "tails"; and
- (7) The city clerk shall instruct the person selected to call the coin toss, prior to conducting the coin toss, to select either heads or tails; and
- (8) The person selected to call the coin toss shall verbally identify their selection (heads or tails), and the city clerk shall record the call (heads or tails) in the minutes of the meeting for the Canvassing board and the city clerk shall thereafter conduct the coin toss by flipping the coin into the air and allowing same to come to rest on the ground; and
- (9) Once the coin has come to rest on the ground, the city clerk shall announce the result and winner of the coin toss and record same in the minutes of the meeting for the Canvassing board.

(e) In the event three (3) or more persons receive an equal number of votes for the same commission place seat in a general or special election, the tie shall be determined by the drawing of lots in accordance with a selection method determined and administered by the city clerk in accordance with Florida law. The selection method for the drawing of lots shall be on a random basis using a uniform distribution method in which all persons involved in the tie have an equal chance of being selected. For example, the drawing of lots may be accomplished by using a ten-sided die, or using a computerized random selection or some other random uniform method as determined by the city clerk. Such random selection method shall be conducted by the city clerk at a duly noticed and held meeting of the Canvassing board of the City and, upon the conclusion of the random selection method utilized by the city clerk, the city clerk shall announce the results of the random selection method employed and winner of the election at which a tie vote occurred. The city clerk shall record in the minutes of the Canvassing board meeting, at which the random selection method is utilized, the random selection method employed to determine the tie vote and winner of the election determined by the random selection method utilized.

SECTION 2. CODIFICATION. It is the intention of the City Commission that the provisions of this Ordinance shall be made a part of the City of Lake Alfred Code of Ordinances; and that sections of this Ordinance may be renumbered or relettered and the word *ordinance* may be changed to *section*, *article*, or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager or his/her designee without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION 3. CONFLICTS. All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the City's Code of Ordinances, unless such repeal is explicitly set forth herein.

SECTION 4. SEVERABILITY. It is declared to be the intent of the City Commission of the City of Lake Alfred, Florida, that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such section, subsection, sentence, clause, phrase, or portion shall be deemed a separate, distinct and independent section, subsection, sentence, clause, phrase, or portion, and

such holding shall not affect the validity of the remaining sections, subsections, sentences, clauses, phrases, or portions thereof.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage after second reading/public hearing.

INTRODUCED AND PASSED on first reading at the regular meeting of the City of Lake Alfred City Commission held this 15th day of May, 2017.

PASSED AND ADOPTED on second reading at the Regular meeting of the City of Lake Alfred City Commission held this 19th day of June, 2017.

CITY OF LAKE ALFRED, FLORIDA

By: _____
Charles O. Lake, Mayor

ATTEST:

Ameé Bailey-Speck, City Clerk

Approved as to form:

Frederick J. Murphy, Jr., City Attorney