

ORDINANCE NO. 2020-005

AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO THE TOWN CHARTER; PROVIDING FINDINGS OF TOWN COUNCIL REGARDING THE CURRENT CHARTER AND A PROPOSED REVISED CHARTER; ADOPTING A NEW CHARTER FOR THE TOWN AND REPEALING THE FORMER CHARTER IN ITS ENTIRETY; AUTHORIZING AND DIRECTING THE FILING AND PUBLICATION OF THE NEW TOWN CHARTER; DECLARING THE LEGAL AUTHORITY FOR ENACTMENT OF THE ORDINANCE; CALLING FOR A REFERENDUM FOR ELECTORS OF THE TOWN TO VOTE ON WHETHER TO APPROVE THE NEW CHARTER; PROVIDING THE BALLOT TITLE AND BALLOT SUMMARY FOR THE REFERENDUM; PROVIDING FOR OTHER RELATED MATTERS; PROVIDING EFFECTIVE DATES.

BE IT ORDAINED BY THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA:

Section 1. Findings of Town Council. The Town Council of the Town of Howey-in-the-Hills finds the following with respect to the Charter of the Town of Howey-in-the-Hills, Florida:

A. The Town of Howey-in-the-Hills, Florida, was created in 1925:

1. The town was established by the enactment of Chapter 10675, Laws of Florida, Acts of 1925. The town's name initially was just the Town of Howey.

2. The 1925 special act set forth the "Government, Jurisdiction, Powers, Franchises, and Privileges" of the new town. In effect, Chapter 10675, Laws of Florida, Acts of 1925, constituted the first charter for the town.

3. Two years later the Legislature of Florida changed the name to the Town of Howey-in-the-Hills, Florida by enacting Chapter 12882, Laws of Florida, Acts of 1927. The legislature also enacted Chapter 12883, reestablishing the town boundaries.

4. In 1933 the town boundaries were again amended by the legislature by enactment of Chapter 16479, Laws of Florida, Acts of 1933.

5. The current town charter was enacted by the Town Council in Ordinance 2004-331 and approved by the voters at referendum in 2004.

B. On February 10, 2020, the Town Council appointed seven town residents to serve as a Charter Committee to review the current town charter, to determine what changes, if any, should be offered to the voters for consideration and to prepare and deliver to Town Council its recommendations for amendments and revisions to the current charter.

C. The Charter Committee has proposed a revision of the town charter in its entirety, in the form and substance contained in Attachment A to this ordinance, for the following purposes:

- i. To delete provisions rendered unnecessary or ineffective by municipal home-rule powers and other Florida law; and
- ii. To adjust the method of election of Town Council members to ensure that the candidates receiving, in the aggregate, the most votes in the election are the ones winning seats on the Town Council, without regard to campaigning for a particular seat; and
- iii. To codify a number of charter-type provisions now in the town code, but not in the town charter;
- iv. To update the style of the charter and to revise or eliminate archaic wording.

D. In its draft of a revised charter, the Charter Committee is proposing no material change to the existing mayor-council form of government for the town, to the duties and powers of the town, to town elections (except as described above), to town executive officers and elected officials, or to any other part of town government.

E. Having reviewed and discussed extensively the proposed revision of the town charter, Town Council is now ready and willing to offer it to town voters for approval at a special election called for that purpose and to be held on Tuesday, February 9, 2021.

Section 2. Approval of the Revised Town Charter. The Charter of the Town of Howey-in-the-Hills is approved in the form and substance contained in Attachment A to this ordinance. The current charter of the Town of Howey-in-the-Hills and all its amendments are repealed in their entirety.

Section 3. Filing and Publication. The Mayor and the Town Clerk are authorized and directed to cause the revised charter to be filed with the Florida Department of State and to be published in the Code of Ordinances of the Town of Howey-in-the-Hills, on the town's website, and at such other locations as may be necessary or useful for the residents and taxpayers of the Town of Howey-in-the-Hills.

Section 4. Authority. This ordinance is enacted pursuant to the authority granted under Section 166.031 of Florida Statutes.

Section 5. Referendum.

A. **Referendum Called.** The Town Council hereby calls a referendum to be held at a special election on Tuesday, February 9, 2021, to allow the electors of the Town of Howey-in-the-Hills to vote on the proposed new charter. All qualified electors of the Town of Howey-in-the-Hills shall be entitled and permitted to vote in the referendum. The referendum shall be held and conducted in the manner prescribed by law for elections. The Town Council authorizes the cost of the election to be paid from the town's general fund.

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87 B. **Ballot.** The ballot title and ballot summary for the referendum shall be as
88 follows:
89

90 **REVISION OF THE TOWN CHARTER FOR THE**
91 **TOWN OF HOWEY-IN-THE-HILLS, FLORIDA**
92

93 Shall the charter for the Town of Howey-in-the-Hills be revised to retain the
94 current mayor-council form of government, but to (i) add election provisions; (ii)
95 specify that candidates with the most votes become councilors; (iii) specify
96 qualifications, disqualifications, and forfeitures for offices of mayor and
97 councilors; (iv) set quorum requirements; (v) tighten the cap on town borrowing;
98 (vi) add other related provisions; and (vii) eliminate provisions that are obsolete
99 or inconsistent with, or redundant to, state law?
100

101 Yes _____
102 No _____
103

104 C. **Translation of the Ballot.** The Mayor and Town Clerk are authorized to have
105 the ballot title and summary translated into Spanish as required by the Lake County Supervisor
106 of Elections.
107

108 D. **Notice and Election Proclamation.** The Mayor and Town Clerk are hereby
109 authorized and directed to advertise the referendum as required by law and to take all other
110 actions necessary or useful to carry out the provisions of this section. This ordinance constitutes
111 an election proclamation for purposes of section 13-3 of the town code.
112


113 **Section 6. Effective Date.** Sections 4 and 5 and this Section 6 take effect immediately upon
114 approval of this ordinance by Town Council. Sections 1 through 3 and the charter in Attachment
115 A take effect on the first day of March, 2021, but only if the revised charter is approved by the
116 electors of the Town voting in the referendum at the special election called in Section 5. If the
117 voters do not approve the revised charter at the special election, this ordinance shall be deemed
118 to be of no further effect.
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126 *** *Signature page follows.* ***
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131

ENACTED this 9th day of November, 2020, at a regular meeting of the Town Council of the Town of Howey-in-the-Hills, Florida.

Town of Howey-in-the-Hills, Florida

by: Town Council

by: 
Hon. Martha MacFarlane, Mayor

Attest:



H. R. Thomas

Police Chief

First reading: October 26, 2020
Second reading: November 9, 2020

**Attachment A
to
Ordinance 2020-005**

**CHARTER
of the
TOWN OF HOWEY-IN-THE-HILLS**

Enacted November 9, 2020, by Ordinance No. 2020-005

Approved at referendum on February 9, 2021

CHARTER *of the* **TOWN OF HOWEY-IN-THE-HILLS**

ARTICLE 1. TOWN BOUNDARIES; CORPORATE AUTHORITY.

Sec. 1. Town created, boundaries.

The corporate limits of the Town of Howey-in-the-Hills are the lands described in Section 1 of Chapter 16479, Laws of Florida, Acts of 1933, plus all lands annexed by or to the Town thereafter, less all lands de-annexed by or from the Town thereafter, plus the lands described in Chapter 94-372, Laws of Florida. A description of the Town boundaries shall be updated from time to time and shall be on file with the Town Clerk.

Sec. 2. Powers of the Town.

The Town shall have all governmental, corporate, and proprietary powers to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, all as contemplated by the Constitution and laws of the State of Florida, as fully and completely as though they were specifically enumerated in this charter.

Sec. 3. Construction of powers.

The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

ARTICLE 2. MAYOR AND TOWN COUNCIL.

Sec. 1. The Town Council.

There shall be a Town Council of five members, who shall be residents and electors of the town, elected by the qualified voters of the Town.

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

The Town Council shall consist of five members, to be titled "councilors," who shall hold five seats numbered consecutively 1 through 5 and shall be elected for a term of four years. Councilors shall hold their seats for the term of office for which they are elected. Elections shall be conducted the first Tuesday following the first Monday in November of each even-numbered year.

Elections for councilor seats 1, 2, and 3 shall be held in numbered years not evenly divided by 4 and for Seats 4 and 5 in numbered years evenly divided by 4. Council seats will be filled by the three candidates or the two candidates, as applicable, receiving the highest number of votes. If the qualifying candidates are not opposed, the seats shall be assigned by the Clerk in alphabetical order. If the qualified candidates are fewer than the open seats, the Council shall deem vacant the seats remaining unfilled after the election and proceed accordingly.

All persons running for the office of councilor shall be at least 21 years of age, a registered voter, and a resident of the Town for at least one year prior to the first day of the qualifying period. To qualify, each candidate must file with the Clerk a petition signed by no fewer than 25 Town electors nominating the candidate for Town Council. The petition must be filed no earlier than noon on the 92nd day, and no later than noon on the 81st day, before the date of the election for which qualifying is sought. Elector signatures on the petition must be verified by the supervisor of elections. The candidate shall also provide a statement that, if elected, he/she will serve, and if not the Council shall omit his/her name from the ballot.

The newly elected Council members shall take their oath and assume office at the first regular Council meeting after certification of the ballot.

Sec. 2. Disqualification for any Town office.

Any person convicted of a felony shall be ineligible for employment by the Town and disqualified from seeking election to an office or appointment to any board, commission, committee or agency in the Town. No more than one family member may hold a seat on the Council. Therefore, a councilor's family members are disqualified from seeking election to the Council unless the family members' terms will not be concurrent. A family member includes parents, siblings, children or spouses.

Sec. 3. Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) **Vacancies.** A Council member's seat shall become vacant upon death, resignation, or removal from office in any manner authorized by law or forfeiture of the office, such forfeiture to be declared by the remaining members of the Council.
- (b) **Forfeiture of Office.** The Mayor or a Council member shall forfeit office if the member:
 - (i) Fails to meet residency requirements; (ii) Is convicted of a felony or a crime involving moral turpitude; (iii) Violates the express provisions of the charter; (iv) Fails to attend three consecutive regularly scheduled Council meetings without Council approval or (v) Brings an action against the Town, its elected officials, executive officers, or employees for damages in tort or for civil-rights violation. The Town Council, by majority vote, shall be the judge of the grounds for forfeiture of a Council seat and may declare a seat vacant where the member has failed to meet the requirements or has violated any of the provisions stated above.

- (c) **Filling Vacancies.** Whenever a vacancy shall occur on the Town Council more than 180 days preceding the next general election, it shall be the duty of the Town Council to order an election to fill the vacancy, and until such election is held the Town Council shall fill such vacancy by appointment. The newly elected member shall hold the seat for the remainder of the original term.

Should a vacancy occur within 180 days of the next general election, the Mayor shall appoint an elector of the town to fill the vacancy. The appointment is subject to the approval by a majority of the membership of the Town Council. The appointee approved in such a manner shall serve until an elected successor takes office.

- (d) **Holding Office.** Except where expressly authorized by law, no Council member shall hold any other elected public office during the term for which the member is elected. No Council member shall hold any other Town office, other than Mayor, or town employment during the term for which they are elected.
- (e) **Prohibitions.** Except for the purpose of enquiries and investigations, Council members shall deal with the Town officers and employees solely through the Mayor and shall not give orders to a Town officer or employee either publicly or privately. Nothing prohibits individual members of the Council from asking questions and seeking information to assist in the formulation of sound policies to be considered by Council and otherwise to enable the performance of councilor duties. No former member of Town Council shall hold any compensated appointive office or employment with the Town until one year after the expiration of the term for which the member was elected.

Unless approved by the Council, any Town official or employee, acting in his/her official capacity, is forbidden from causing the Town to do business with a firm in which he/she has a material interest, and the Town shall make no transactions with a firm in which a Town official or employee's spouse, parent, sibling or child has a material interest. Nor shall an official or employee acting in a private capacity transact business with the Town. The Town official must declare the interest and recuse himself/herself from any vote on the matter. A Town official or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and subject to forfeiture of his/her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Mayor or the Town Council.

Sec 4. Procedure.

- (a) **Meetings.** The Council shall meet regularly on the second and fourth Monday of each month at such times and places as the Council may prescribe. By ordinance, the Council may change from time to time the days of the month when regular meetings are to be

held. Special scheduled meetings shall be held on the call of either the Mayor or a majority of the Council, with 72-hour notice (except in cases of extreme emergency).

- (b) **Rules of Order.** The Council shall determine its own rules and order of business. Roberts Rule of Order may be applicable.
- (c) **Voting.** Voting on ordinances and resolutions, the execution of contracts, and all financial matters shall be by roll call and shall be recorded in the minutes. A majority of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present. Except as provided by law, a Council member absent from the meeting may enter into discussion by telephone or video conference but may not vote unless present. However, if a quorum is physically present, the participation and vote of an absent member is permissible when such absence is due to extraordinary circumstances such as illness. Such a circumstance is a determination that must be made in the good judgement of the Council.
- (d) **Compensation.** The Council shall determine the compensation of the Mayor and Council members by ordinance; an ordinance increasing such compensation shall become effective no earlier than October 1st of the next budget year. The Mayor and Council members shall receive reimbursement of their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 5. Office of the Mayor.

- (a) **Mayor and Chief Executive Officer.** The Mayor shall be the Chief Executive Officer of the Town. The Mayor shall be appointed by majority vote of the members of the Town Council at the next regular scheduled meeting following the general election and certification of the ballot, and immediately following the swearing in of any new Council members. The Mayor shall be responsible to the electorate for the administration of all Town affairs under this Charter, the ordinances of the Town, and applicable law.
- (b) **Qualification of Mayor.** The Mayor shall be an elector of the Town and shall have been a member of the Town Council for a period of no less than one year prior to appointment to the office, unless approved otherwise by a vote of four-fifths of its members. If the office of Mayor becomes vacant or is forfeited, the Town Council shall select a new Mayor to serve the unexpired portion of the then current term.
- (c) **Term of the Mayor.** The Mayor shall be appointed for a two year term and may be reelected subsequently.
- (d) **Removal of the Mayor.** The Town Council may, by supermajority vote, remove the Mayor at any regular or special Council meeting with or without cause. Upon removal of the Mayor the Town Council shall appoint another member of the Town Council to serve as Mayor for the unexpired portion of the then current term.

- (e) **Powers and Duties of the Mayor.** The Mayor shall have the following powers and duties:
- (i) To be the head of Town government for all purposes, including but not limited to martial law, civil defense, service of process, execution of contracts, deeds and other legal documents.
 - (ii) To be the official spokesperson for the Town.
 - (iii) To take such action in emergency situations as the Mayor may deem necessary. The emergency powers of the Mayor shall not extend beyond the next meeting of the Town Council.
 - (iv) To investigate the condition of the Town and the Town's departments and offices.
 - (v) To call special meetings of the Town Council.
 - (vi) To establish the agenda for Town Council meetings.
 - (vii) To temporarily fill vacancies occurring among the executive officers of the Town.
 - (viii) To hire, appoint, suspend and remove all Town employees, including the executive officers of the Town. Any action taken by the Mayor under this subparagraph in respect to the executive officers of the Town shall be subject to the approval of the Town Council.
 - (ix) To direct and supervise the administration of all departments, offices and agencies of the Town.
 - (x) To attend and preside at all meetings of the Town Council, and the Mayor shall be a voting member of the Town Council.
 - (xi) To submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town by December 1st of the same year. The Mayor shall provide other reports requested by the Town Council concerning the operations of the Town departments, offices and agencies subject to the Mayor's direction and supervision.
 - (xii) To keep the Town Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Town Council concerning the affairs of the Town.
 - (xiii) To perform such other duties as are specified in this Charter or as may be required by the Town Council.
- (f) **Mayor Pro Tempore; vacancies in office of Mayor.** The Town Council shall appoint from among its members a Mayor Pro Tempore. Appointment of the Mayor Pro Tempore shall be done at the Town Council's next regular scheduled meeting following a general election and certification of the ballot, and immediately following the swearing in of any new Council members and the appointment of the Mayor. The Mayor Pro Tempore shall preside at meetings of the Town Council in the absence or temporary disability of the Mayor and shall have no administrative duties except as required to carry out the responsibilities therein. In the event that the Mayor dies, resigns, becomes

permanently disabled, ceases to be qualified, or is removed from office, the Mayor Pro Tempore shall become interim Mayor with the full powers and duties of the Mayor as provided by this Charter and other law until the Town Council appoints a new Mayor.

Sec. 6. Borrowing.

The Town shall have the power to borrow for a term of any length not to exceed 30 years. Except in an emergency declared by the approving vote of no fewer than four-fifths of the members of Town Council, no borrowing may cause the aggregate principal amount of outstanding Town debt to exceed at any time an amount equal to 3% of the assessed valuation of the real and personal property within the corporate limits of the Town unless approved by a majority of the Town electors voting in a referendum on the question.

Sec. 7. Financial Procedures.

- (a) **Fiscal year.** The fiscal year of the Town shall begin on October 1 of each year and end on September 30 of the following year.
- (b) **Budget.** The budget shall be adopted by resolution and shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or the Charter, shall be in such a form as the Town Clerk/Finance Director deems appropriate or the Mayor may require. In organizing the budget, the Town Clerk/Finance Director shall receive from each department their budget request by July 1st, with the first budget meeting being held within 15 days.

The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures for the preceding fiscal year.

- (c) **Supplemental appropriations.** If, during the fiscal year, the Town Clerk/Finance Director certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.
- (d) **Reduction of appropriations.** If at any time during the fiscal year it appears probable to the Town Clerk that the revenues available will be insufficient to meet the amount appropriated, the Town Clerk/Finance Director shall report to the Mayor and/or Council immediately, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may, by resolution, reduce one or more appropriations.

- (e) **Transfer of Appropriations.** Upon written request by the Town Clerk/Finance Director or by action of the Town Council, the Town Council may, by resolution transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency or to another department, office or agency.

Sec. 8. Administrative.

Each department and office under the direction and supervision of the Mayor shall be administered by an executive officer appointed by the Mayor, with the approval of the Council, and subject to the direction and supervision of the Mayor. Executive Officers of the Town shall include Town Clerk/Finance Director, Director of Public Works and Chief of Police. The Town Council may provide for other executive officers by ordinance. Should the Council employ a Finance Director separate from the Clerk, then the duties set out below in (b)(vi) to (ix) and (x) will become the responsibility of the Finance Director.

- (a) **Temporary Absence.** The Mayor shall appoint a temporary replacement to exercise the powers and perform the duties of any Town executive officer during a temporary absence or disability. During such absence or disability, the Mayor with the approval of Council may revoke such designation at any time and appoint another individual to serve until the executive officer returns to active employment.
- (b) **Town Clerk/Finance Director.** The Town Clerk/Finance Director shall be responsible to the Mayor and Council for the proper administration of the Town as stated by the Town Council and shall be required to:
 - (i) Attend all Council meetings and shall have the right to take part in discussion but may not vote.
 - (ii) See that all laws, provisions of this Charter, and acts of the Council are faithfully executed.
 - (iii) Be the Elections Qualifying Officer for the Town.
 - (iv) Be the custodian of the Town seal.
 - (v) Be the custodian of records for the Town.
 - (vi) Keep an accurate account of all monies received and disbursed; and prepare on a monthly basis a financial report detailing all receipts and disbursements. The report shall be submitted to the Town Council at its next regularly scheduled meeting following the month for which the report has been prepared.
 - (vii) Keep the financial records of the Town in a manner recommended by the Town accountant and approved by the Town Council
 - (viii) Prepare the budget annually and, upon its approval by the Mayor, submit it to the Town Council and be responsible for its administration after adoption, subject to guidelines established by the Mayor or Town Council.
 - (ix) Keep the Mayor and Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as may be deemed appropriate or necessary.

- (x) Perform such other duties as are specified in this Charter, or by the Mayor, or Council, or in the Policy and Procedure manual.
- (c) **Public Works Director.** The Public Works Director shall be responsible for the management and operation of the Public Works Department as set forth by the policy and procedure manual. The duties of the Public Works Director shall include but are not limited to construction improvements and repair and maintenance of Town facilities (including roads, drainage, parks, playgrounds, water and wastewater systems, cemetery and other public facilities). The Public Works Director shall report directly to the Mayor.
- (d) **Police Department.** The Town shall have a police department. One officer will have the title of Chief of Police. The Chief will report directly to the Mayor and shall be responsible for the administration of the Police Department as well as the conduct and performance of its officers and employees.
- (e) **Requirement for a Town Attorney.** The Town Council shall contract with an attorney in good standing with The Florida Bar to provide legal services to the Town. The town attorney shall be a licensed, practicing attorney. The town attorney shall serve as legal advisor to the Town in all its legal matters. When such advice is required, the Mayor will make the request and the advice shall be submitted by the town attorney in writing to the Mayor and Town Council. All requests for legal advice or other contact with the attorney shall be approved by the Mayor or a majority of the Town Council. It shall be the town attorney's duty to prepare, draft and review ordinances, resolutions, contracts and agreements, legal papers pertaining to bond issues and other borrowing, and other matters for the municipal government.
- (f) **Requirement for a Town Auditor.** The Town Council shall provide for an independent annual audit of all Town accounts and may provide for such more frequent audits as it deems necessary. Audits shall be made by a certified public accounting firm with accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Town government or any of its officers. The Town Council may designate an accounting firm as the Town Auditor without requiring competitive bids and for a period of one year or longer as the Town Council deems appropriate. The Town Council may designate the accounting firm to serve on a continuing-contract basis for a period not exceeding three years and which may be terminated at the pleasure of the majority of Town Council.

ARTICLE 3. PLANNING AND ZONING.

Sec. 1. Town Policies.

The Council shall adopt, and may from time to time modify, policies to govern the development of land in the Town. Any changes or modifications shall be presented by the Council at public

hearings prior to adoption, with proper notification to citizens as prescribed in state law and the Town's Land Development Regulations.

Sec. 2. Land Use and Development.

The Council shall by ordinance enact regulations for the use and development of land within the Town including but not limited to those for the preservation of health, ecological, aesthetic, and historic values; to prevent accidents and fires; to minimize potential wind and storm damage; to control the circulation, storage and parking of motor vehicles, and for other reasons which contribute to the well-being of residents.

Sec. 3. Planning and Zoning Board.

A Planning and Zoning Board shall be provided by ordinance. Unless otherwise required by law, the members of all boards, commissions, committees and agencies provided for in the administrative code shall be appointed by the Council.

ARTICLE 4. MISCELLANEOUS PROVISIONS.

Sec. 1. Qualified Voters.

For Town elections, any person 18 years or older, who is a registered voter, and is residing within the town limits of the Town of Howey in the Hills at the time of a municipal election shall be deemed a qualified elector authorized to vote in such municipal elections.

Sec. 2. Charter Amendments and Revisions.

This Charter may be amended in accordance with Florida Statute 166.031 or its successor statute providing for amendment of municipal charters.

Sec. 3. Conflicting Laws.

All Town ordinances and regulations, or parts thereof, insofar as they conflict with or are inconsistent with the provisions of this Charter, shall be and the same are hereby superseded.

Sec. 4. Severability.

If any article, section, or portion of article or 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 article, section or portion of any article or section so held invalid may appear, except to the extent that an entire article or part of a section may be inseparably connected in meaning and effect with that portion of this Charter to which the holding shall directly apply. To that end, this Charter is declared to be severable.

Sec. 5. Legality.

Any section of any article in this Charter that is invalid or is otherwise prohibited by federal or state statute shall be deemed automatically repealed. When it appears that a decision of a court of last resort invalidates an equivalent provision of this Charter, such statute or decision shall automatically repeal such individual provision without the necessity of amending this Charter, unless such amendment is otherwise deemed necessary and advisable.

Sec. 6. Ordinances Remain In Force.

All ordinances of the Town now in force and which are not in conflict with the provisions of this Charter, the Constitution and Laws of the United States and the State of Florida shall be and remain ordinances of the Town, until altered, amended, modified or repealed by the Town Council.

Sec. 7. Prohibition.

The Town of Howey in the Hills prohibits discrimination in all its programs and activities on the basis of race, color, natural origin, gender, religion, age, disability, sexual orientation and marital or family status.

Sec. 8. Transition Provisions.

Each Councilor on Town Council on the effective date of this Charter shall remain on Council until the end of his/her respective term. All employees of the Town, including all executive officers, as of the effective date of this Charter shall remain employed unless and until terminated as provided by this Charter and Town personnel policies.

Sec. 9. Effective Date.

This Charter shall take effect on the first day of the first full calendar month after its approval by a majority of the Town electors voting in a referendum on the question.

CHARTER
of the
TOWN OF HOWEY-IN-THE-HILLS

Enacted November 9, 2020, by Ordinance No. 2020-005

Approved at referendum on February 9, 2021

CHARTER

of the

TOWN OF HOWEY-IN-THE-HILLS

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Sec. 1. Town created, boundaries.

The corporate limits of the Town of Howey-in-the-Hills are the lands described in Section 1 of Chapter 16479, Laws of Florida, Acts of 1933, plus all lands annexed by or to the Town thereafter, less all lands de-annexed by or from the Town thereafter, plus the lands described in Chapter 94-372, Laws of Florida. A description of the Town boundaries shall be updated from time to time and shall be on file with the Town Clerk.

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The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in this article.

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Elections for councilor seats 1, 2, and 3 shall be held in numbered years not evenly divided by 4 and for Seats 4 and 5 in numbered years evenly divided by 4. Council seats will be filled by the three candidates or the two candidates, as applicable, receiving the highest number of votes. If the qualifying candidates are not opposed, the seats shall be assigned by the Clerk in alphabetical order. If the qualified candidates are fewer than the open seats, the Council shall deem vacant the seats remaining unfilled after the election and proceed accordingly.

All persons running for the office of councilor shall be at least 21 years of age, a registered voter, and a resident of the Town for at least one year prior to the first day of the qualifying period. To qualify, each candidate must file with the Clerk a petition signed by no fewer than 25 Town electors nominating the candidate for Town Council. The petition must be filed no earlier than noon on the 92nd day, and no later than noon on the 81st day, before the date of the election for which qualifying is sought. Elector signatures on the petition must be verified by the supervisor of elections. The candidate shall also provide a statement that, if elected, he/she will serve, and if not the Council shall omit his/her name from the ballot.

The newly elected Council members shall take their oath and assume office at the first regular Council meeting after certification of the ballot.

Sec. 2. Disqualification for any Town office.

Any person convicted of a felony shall be ineligible for employment by the Town and disqualified from seeking election to an office or appointment to any board, commission, committee or agency in the Town. No more than one family member may hold a seat on the Council. Therefore, a councilor's family members are disqualified from seeking election to the Council unless the family members' terms will not be concurrent. A family member includes parents, siblings, children or spouses.

Sec. 3. Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) **Vacancies.** A Council member's seat shall become vacant upon death, resignation, or removal from office in any manner authorized by law or forfeiture of the office, such forfeiture to be declared by the remaining members of the Council.
- (b) **Forfeiture of Office.** The Mayor or a Council member shall forfeit office if the member:
 - (i) Fails to meet residency requirements; (ii) Is convicted of a felony or a crime involving moral turpitude; (iii) Violates the express provisions of the charter; (iv) Fails to attend three consecutive regularly scheduled Council meetings without Council approval or (v) Brings an action against the Town, its elected officials, executive officers, or employees

for damages in tort or for civil-rights violation. The Town Council, by majority vote, shall be the judge of the grounds for forfeiture of a Council seat and may declare a seat vacant where the member has failed to meet the requirements or has violated any of the provisions stated above.

- (c) **Filling Vacancies.** Whenever a vacancy shall occur on the Town Council more than 180 days preceding the next general election, it shall be the duty of the Town Council to order an election to fill the vacancy, and until such election is held the Town Council shall fill such vacancy by appointment. The newly elected member shall hold the seat for the remainder of the original term.

Should a vacancy occur within 180 days of the next general election, the Mayor shall appoint an elector of the town to fill the vacancy. The appointment is subject to the approval by a majority of the membership of the Town Council. The appointee approved in such a manner shall serve until an elected successor takes office.

- (d) **Holding Office.** Except where expressly authorized by law, no Council member shall hold any other elected public office during the term for which the member is elected. No Council member shall hold any other Town office, other than Mayor, or town employment during the term for which they are elected.
- (e) **Prohibitions.** Except for the purpose of enquiries and investigations, Council members shall deal with the Town officers and employees solely through the Mayor and shall not give orders to a Town officer or employee either publicly or privately. Nothing prohibits individual members of the Council from asking questions and seeking information to assist in the formulation of sound policies to be considered by Council and otherwise to enable the performance of councilor duties. No former member of Town Council shall hold any compensated appointive office or employment with the Town until one year after the expiration of the term for which the member was elected.

Unless approved by the Council, any Town official or employee, acting in his/her official capacity, is forbidden from causing the Town to do business with a firm in which he/she has a material interest, and the Town shall make no transactions with a firm in which a Town official or employee's spouse, parent, sibling or child has a material interest. Nor shall an official or employee acting in a private capacity transact business with the Town. The Town official must declare the interest and recuse himself/herself from any vote on the matter. A Town official or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and subject to forfeiture of his/her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Mayor or the Town Council.

Sec 4. Procedure.

- (a) **Meetings.** The Council shall meet regularly on the second and fourth Monday of each month at such times and places as the Council may prescribe. By ordinance, the Council may change from time to time the days of the month when regular meetings are to be held. Special scheduled meetings shall be held on the call of either the Mayor or a majority of the Council, with 72-hour notice (except in cases of extreme emergency).
- (b) **Rules of Order.** The Council shall determine its own rules and order of business. Roberts Rule of Order may be applicable.
- (c) **Voting.** Voting on ordinances and resolutions, the execution of contracts, and all financial matters shall be by roll call and shall be recorded in the minutes. A majority of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present. Except as provided by law, a Council member absent from the meeting may enter into discussion by telephone or video conference but may not vote unless present. However, if a quorum is physically present, the participation and vote of an absent member is permissible when such absence is due to extraordinary circumstances such as illness. Such a circumstance is a determination that must be made in the good judgement of the Council.
- (d) **Compensation.** The Council shall determine the compensation of the Mayor and Council members by ordinance; an ordinance increasing such compensation shall become effective no earlier than October 1st of the next budget year. The Mayor and Council members shall receive reimbursement of their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 5. Office of the Mayor.

- (a) **Mayor and Chief Executive Officer.** The Mayor shall be the Chief Executive Officer of the Town. The Mayor shall be appointed by majority vote of the members of the Town Council at the next regular scheduled meeting following the general election and certification of the ballot, and immediately following the swearing in of any new Council members. The Mayor shall be responsible to the electorate for the administration of all Town affairs under this Charter, the ordinances of the Town, and applicable law.
- (b) **Qualification of Mayor.** The Mayor shall be an elector of the Town and shall have been a member of the Town Council for a period of no less than one year prior to appointment to the office, unless approved otherwise by a vote of four-fifths of its members. If the office of Mayor becomes vacant or is forfeited, the Town Council shall select a new Mayor to serve the unexpired portion of the then current term.

- (c) **Term of the Mayor.** The Mayor shall be appointed for a two year term and may be reelected subsequently.
- (d) **Removal of the Mayor.** The Town Council may, by supermajority vote, remove the Mayor at any regular or special Council meeting with or without cause. Upon removal of the Mayor the Town Council shall appoint another member of the Town Council to serve as Mayor for the unexpired portion of the then current term.
- (e) **Powers and Duties of the Mayor.** The Mayor shall have the following powers and duties:
 - (i) To be the head of Town government for all purposes, including but not limited to martial law, civil defense, service of process, execution of contracts, deeds and other legal documents.
 - (ii) To be the official spokesperson for the Town.
 - (iii) To take such action in emergency situations as the Mayor may deem necessary. The emergency powers of the Mayor shall not extend beyond the next meeting of the Town Council.
 - (iv) To investigate the condition of the Town and the Town's departments and offices.
 - (v) To call special meetings of the Town Council.
 - (vi) To establish the agenda for Town Council meetings.
 - (vii) To temporarily fill vacancies occurring among the executive officers of the Town.
 - (viii) To hire, appoint, suspend and remove all Town employees, including the executive officers of the Town. Any action taken by the Mayor under this subparagraph in respect to the executive officers of the Town shall be subject to the approval of the Town Council.
 - (ix) To direct and supervise the administration of all departments, offices and agencies of the Town.
 - (x) To attend and preside at all meetings of the Town Council, and the Mayor shall be a voting member of the Town Council.
 - (xi) To submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the Town by December 1st of the same year. The Mayor shall provide other reports requested by the Town Council concerning the operations of the Town departments, offices and agencies subject to the Mayor's direction and supervision.
 - (xii) To keep the Town Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Town Council concerning the affairs of the Town.
 - (xiii) To perform such other duties as are specified in this Charter or as may be required by the Town Council.

- (f) **Mayor Pro Tempore; vacancies in office of Mayor.** The Town Council shall appoint from among its members a Mayor Pro Tempore. Appointment of the Mayor Pro Tempore shall be done at the Town Council's next regular scheduled meeting following a general election and certification of the ballot, and immediately following the swearing in of any new Council members and the appointment of the Mayor. The Mayor Pro Tempore shall preside at meetings of the Town Council in the absence or temporary disability of the Mayor and shall have no administrative duties except as required to carry out the responsibilities therein. In the event that the Mayor dies, resigns, becomes permanently disabled, ceases to be qualified, or is removed from office, the Mayor Pro Tempore shall become interim Mayor with the full powers and duties of the Mayor as provided by this Charter and other law until the Town Council appoints a new Mayor.

Sec. 6. Borrowing.

The Town shall have the power to borrow for a term of any length not to exceed 30 years. Except in an emergency declared by the approving vote of no fewer than four-fifths of the members of Town Council, no borrowing may cause the aggregate principal amount of outstanding Town debt to exceed at any time an amount equal to 3% of the assessed valuation of the real and personal property within the corporate limits of the Town unless approved by a majority of the Town electors voting in a referendum on the question.

Sec. 7. Financial Procedures.

- (a) **Fiscal year.** The fiscal year of the Town shall begin on October 1 of each year and end on September 30 of the following year.
- (b) **Budget.** The budget shall be adopted by resolution and shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or the Charter, shall be in such a form as the Town Clerk/Finance Director deems appropriate or the Mayor may require. In organizing the budget, the Town Clerk/Finance Director shall receive from each department their budget request by July 1st, with the first budget meeting being held within 15 days.

The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures for the preceding fiscal year.

- (c) **Supplemental appropriations.** If, during the fiscal year, the Town Clerk/Finance Director certifies that there are available for appropriation revenues in excess of those

estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.

- (d) **Reduction of appropriations.** If at any time during the fiscal year it appears probable to the Town Clerk that the revenues available will be insufficient to meet the amount appropriated, the Town Clerk/Finance Director shall report to the Mayor and/or Council immediately, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may, by resolution, reduce one or more appropriations.
- (e) **Transfer of Appropriations.** Upon written request by the Town Clerk/Finance Director or by action of the Town Council, the Town Council may, by resolution transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency or to another department, office or agency.

Sec. 8. Administrative.

Each department and office under the direction and supervision of the Mayor shall be administered by an executive officer appointed by the Mayor, with the approval of the Council, and subject to the direction and supervision of the Mayor. Executive Officers of the Town shall include Town Clerk/Finance Director, Director of Public Works and Chief of Police. The Town Council may provide for other executive officers by ordinance. Should the Council employ a Finance Director separate from the Clerk, then the duties set out below in (b)(vi) to (ix) and (x) will become the responsibility of the Finance Director.

- (a) **Temporary Absence.** The Mayor shall appoint a temporary replacement to exercise the powers and perform the duties of any Town executive officer during a temporary absence or disability. During such absence or disability, the Mayor with the approval of Council may revoke such designation at any time and appoint another individual to serve until the executive officer returns to active employment.
- (b) **Town Clerk/Finance Director.** The Town Clerk/Finance Director shall be responsible to the Mayor and Council for the proper administration of the Town as stated by the Town Council and shall be required to:
 - (i) Attend all Council meetings and shall have the right to take part in discussion but may not vote.
 - (ii) See that all laws, provisions of this Charter, and acts of the Council are faithfully executed.
 - (iii) Be the Elections Qualifying Officer for the Town.
 - (iv) Be the custodian of the Town seal.
 - (v) Be the custodian of records for the Town.

- (vi) Keep an accurate account of all monies received and disbursed; and prepare on a monthly basis a financial report detailing all receipts and disbursements. The report shall be submitted to the Town Council at its next regularly scheduled meeting following the month for which the report has been prepared.
 - (vii) Keep the financial records of the Town in a manner recommended by the Town accountant and approved by the Town Council
 - (viii) Prepare the budget annually and, upon its approval by the Mayor, submit it to the Town Council and be responsible for its administration after adoption, subject to guidelines established by the Mayor or Town Council.
 - (ix) Keep the Mayor and Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as may be deemed appropriate or necessary.
 - (x) Perform such other duties as are specified in this Charter, or by the Mayor, or Council, or in the Policy and Procedure manual.
- (c) **Public Works Director.** The Public Works Director shall be responsible for the management and operation of the Public Works Department as set forth by the policy and procedure manual. The duties of the Public Works Director shall include but are not limited to construction improvements and repair and maintenance of Town facilities (including roads, drainage, parks, playgrounds, water and wastewater systems, cemetery and other public facilities). The Public Works Director shall report directly to the Mayor.
- (d) **Police Department.** The Town shall have a police department. One officer will have the title of Chief of Police. The Chief will report directly to the Mayor and shall be responsible for the administration of the Police Department as well as the conduct and performance of its officers and employees.
- (e) **Requirement for a Town Attorney.** The Town Council shall contract with an attorney in good standing with The Florida Bar to provide legal services to the Town. The town attorney shall be a licensed, practicing attorney. The town attorney shall serve as legal advisor to the Town in all its legal matters. When such advice is required, the Mayor will make the request and the advice shall be submitted by the town attorney in writing to the Mayor and Town Council. All requests for legal advice or other contact with the attorney shall be approved by the Mayor or a majority of the Town Council. It shall be the town attorney's duty to prepare, draft and review ordinances, resolutions, contracts and agreements, legal papers pertaining to bond issues and other borrowing, and other matters for the municipal government.
- (f) **Requirement for a Town Auditor.** The Town Council shall provide for an independent annual audit of all Town accounts and may provide for such more frequent audits as it deems necessary. Audits shall be made by a certified public accounting firm with accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Town government or any of its officers. The Town Council may designate an accounting

firm as the Town Auditor without requiring competitive bids and for a period of one year or longer as the Town Council deems appropriate. The Town Council may designate the accounting firm to serve on a continuing-contract basis for a period not exceeding three years and which may be terminated at the pleasure of the majority of Town Council.

ARTICLE 3. PLANNING AND ZONING.

Sec. 1. Town Policies.

The Council shall adopt, and may from time to time modify, policies to govern the development of land in the Town. Any changes or modifications shall be presented by the Council at public hearings prior to adoption, with proper notification to citizens as prescribed in state law and the Town's Land Development Regulations.

Sec. 2. Land Use and Development.

The Council shall by ordinance enact regulations for the use and development of land within the Town including but not limited to those for the preservation of health, ecological, aesthetic, and historic values; to prevent accidents and fires; to minimize potential wind and storm damage; to control the circulation, storage and parking of motor vehicles, and for other reasons which contribute to the well-being of residents.

Sec. 3. Planning and Zoning Board.

A Planning and Zoning Board shall be provided by ordinance. Unless otherwise required by law, the members of all boards, commissions, committees and agencies provided for in the administrative code shall be appointed by the Council.

ARTICLE 4. MISCELLANEOUS PROVISIONS.

Sec. 1. Qualified Voters.

For Town elections, any person 18 years or older, who is a registered voter, and is residing within the town limits of the Town of Howey in the Hills at the time of a municipal election shall be deemed a qualified elector authorized to vote in such municipal elections.

Sec. 2. Charter Amendments and Revisions.

This Charter may be amended in accordance with Florida Statute 166.031 or its successor statute providing for amendment of municipal charters.

Sec. 3. Conflicting Laws.

All Town ordinances and regulations, or parts thereof, insofar as they conflict with or are inconsistent with the provisions of this Charter, shall be and the same are hereby superseded.

Sec. 4. Severability.

If any article, section, or portion of article or 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 article, section or portion of any article or section so held invalid may appear, except to the extent that an entire article or part of a section may be inseparably connected in meaning and effect with that portion of this Charter to which the holding shall directly apply. To that end, this Charter is declared to be severable.

Sec. 5. Legality.

Any section of any article in this Charter that is invalid or is otherwise prohibited by federal or state statute shall be deemed automatically repealed. When it appears that a decision of a court of last resort invalidates an equivalent provision of this Charter, such statute or decision shall automatically repeal such individual provision without the necessity of amending this Charter, unless such amendment is otherwise deemed necessary and advisable.

Sec. 6. Ordinances Remain In Force.

All ordinances of the Town now in force and which are not in conflict with the provisions of this Charter, the Constitution and Laws of the United States and the State of Florida shall be and remain ordinances of the Town, until altered, amended, modified or repealed by the Town Council.

Sec. 7. Prohibition.

The Town of Howey in the Hills prohibits discrimination in all its programs and activities on the basis of race, color, natural origin, gender, religion, age, disability, sexual orientation and marital or family status.

Sec. 8. Transition Provisions.

Each Councilor on Town Council on the effective date of this Charter shall remain on Council until the end of his/her respective term. All employees of the Town, including all executive officers, as of the effective date of this Charter shall remain employed unless and until terminated as provided by this Charter and Town personnel policies.

Sec. 9. Effective Date.

This Charter shall take effect on the first day of the first full calendar month after its approval by a majority of the Town electors voting in a referendum on the question.

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