

ORDINANCE NO. 1493

AN ORDINANCE OF THE CITY OF OVIEDO, FLORIDA CALLING FOR A REFERENDUM ELECTION TO BE HELD ON THE DATE OF THE 2010 GENERAL ELECTION FOR THE PURPOSES OF PROPOSING TO THE ELECTORATE OF THE CITY OF OVIEDO VARIOUS PROPOSALS TO REVISE THE CHARTER OF THE CITY OF OVIEDO; PROVIDING FOR REVISIONS TO SECTION 3.07 PERTAINING TO VACANCIES, FORFEITURES OF OFFICE AND FILLING OF VACANCIES, SECTION 3.05 PERTAINING TO THE OFFICE OF MAYOR, DEPUTY MAYOR AND THEIR DUTIES, SECTION 4.01 PERTAINING TO THE CITY MANAGER AND THE APPOINTMENT TO, QUALIFICATIONS FOR, RESPONSIBILITIES OF AND COMPENSATION TO THAT OFFICE, SECTION 4.05 PERTAINING TO THE POLICE AND FIRE DEPARTMENTS, AND SECTION 4.08.11 PERTAINING TO MANAGING FINANCES, BORROWING MONEY AND SELLING BONDS; PROVIDING FOR BALLOT LANGUAGE; PROVIDING FOR THE CALL OF A REFERENDUM ELECTION; PROVIDING FOR THE DUTIES OF THE CITY CLERK; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF OVIEDO AND POWERS AND AUTHORITY FOR THE CODE CODIFIER; PROVIDING FOR SEVERABILITY AND PROVIDING FOR EFFECTIVE DATE OF ORDINANCE AND EFFECTIVE DATE OF PROPOSED CHARTER AMENDMENTS.

WHEREAS, the City Council of the City of Oviedo adopted Resolution Number 1986-09 and appointed therein the City of Oviedo *Charter* Review Committee and assigned the Charter Review Committee various duties and responsibilities; and

WHEREAS, the *Charter* Review Committee was created in accordance with Section 3.11 of the *Charter of the City of Oviedo*; and

WHEREAS, the *Charter* Review Committee met on numerous occasions and received and considered public input and comment that has been beneficial to the Committee; and

WHEREAS, the activities of the *Charter* Review Committee resulted in the Committee's proposing various amendments to the *Charter of the City of Oviedo*; and

WHEREAS, the *Charter* Review Committee provided detailed rationales for the proposed amendments to the *Charter of the City of Oviedo* in consultation with City staff; and

WHEREAS, the City Council of the City of Oviedo has considered the proposals made by the *Charter* Review Committee and the results and processes of the recent referendum election has concluded that it is in the best interests of the citizens of the City of Oviedo for the City Council to propose a *Charter of the City of Oviedo* at a referendum election in accordance with the provisions of Section 166.031, *Florida Statutes*, and in the form set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OVIEDO, FLORIDA, AS FOLLOWS:

SECTION 1. VACANCIES IN OFFICE. Section 3.07 of the *Charter of the City of Oviedo, Florida*, is proposed to be amended to read as follows with the entire Section being substantially reworded:

Sec. 3.07. - Vacancies; forfeitures of office; filling of vacancies.

(a) *Vacancies.* The office of mayor or councilmember shall become vacant upon his or her death, resignation, removal from office in any manner authorized by law or forfeiture of office, such forfeiture to be declared by the remaining members of the council. A resignation shall be effective upon submission although it may have an effective date of no more than thirty (30) days from the date of the resignation. Once submitted, a resignation may not be withdrawn or revoked.

(b) *Forfeiture of office.* The mayor or a councilmember shall forfeit his or her said office if he or she lacks at any time during his or her term of office any qualifications for the office prescribed by this Charter or by law.

(c) *Filling of vacancies.* A vacancy in the office of the mayor or of a councilmember shall be filled in the following ways:

(1) In the event of a vacancy in the office of mayor, the deputy mayor shall serve as mayor for the remainder of the vacating mayor's term of office.

(2) In the event of a vacancy in the office of a councilmember or the deputy mayor with less than six (6) months remaining in their term of office, the council, by a majority vote of the remaining members, shall choose, within thirty (30) days, a successor to serve until the newly elected councilmember is elected.

(3) In the event of a vacancy in the office of a council member or deputy mayor with more than six (6) months remaining, the council shall fill the vacancy on an interim basis as provided in subsection (c)(2) of this section, and shall schedule a special election to be held not sooner than thirty (30) days, nor more than sixty (60) days following the occurrence of the vacancy.

(4) Replacement councilmembers who are elected at an election shall take office immediately upon election results being canvassed.

(5) In the event of a tie vote occurring during the process of the council's selection of an interim councilmember, the mayor shall be vested with an additional vote by which to break the tie.

(6) Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members may by majority vote, appoint additional councilmembers under either subsection (c)(2) or (c) (3) of this section. Additionally, the council may take such other actions as are needed in the event of a vacancy or vacancies in office to ensure that it will continue to function as a governing body.

SECTION 2. BALLOT QUESTION ONE: The form of the ballot for the *Charter* amendment provided for in Section 1 of this Ordinance shall be as follows:

Filling Vacancies In Office (Section 3.07).

The *City Charter* currently contains a provision related to filling vacancies on the City Council when less than 6 months remain in a term of office. It is proposed that the *Charter* be amended to require the City Council to fill vacancies within 30 days, to provide that the mayor cast the deciding vote when in tie votes, and to articulate the current provisions of the *Charter* relative to the resignations and successions to office.

Shall the proposed *Charter* amendment be adopted?

Yes []

No []

SECTION 3. MAYOR AND DEPUTY MAYOR. Section 3.05 of the *Charter of the City of Oviedo, Florida*, is proposed to be amended to read as follows:

Sec. 3.05. - Mayor; deputy mayor; duties.

(a) The mayor shall have the following duties, but shall not exercise administrative powers of the city:

- (1) Be a voting member of the city council.
- (2) ~~Preside at meetings of the city council.~~
- (3) Be recognized as head of the city government for all ceremonial purposes.
- (4) (3) Be recognized by the governor for the purposes of martial law.
- (5) (4) Be the official under the provisions of state law 1 for the purposes of declaring states of emergency within the city limits and to exercise emergency powers.
- (6) (5) To issue proclamations relating to events, persons, or issues of significance to the city.
- (7) (6) To execute ordinances, resolutions, contracts, agreements, and other instruments of the city.
- (8) (7) To represent the city in intergovernmental relationships.
- (9) (8) To execute certifications to other governmental entities.

(b) At the first city council meeting in December of each year the city council shall determine, by majority vote, which member of the city council shall preside at meetings of the city council. If any city council member is selected besides the mayor, that member shall serve as deputy mayor. If a majority vote in favor of a member of the city council other than the mayor does not occur, the mayor shall be the presiding officer.

(c) In the event that the mayor is determined at the first December meeting of the city council as presiding officer of The deputy mayor shall be elected annually by the city council, said election to occur at the first meeting of the city council shall select a member of the city council to serve as deputy mayor following each regular city general election.

(d) (e) Any time the mayor is absent from office for a period of more than forty-eight hours, the mayor shall notify the city council. The deputy mayor shall act as mayor whenever the mayor is absent, disabled or unable to serve.

SECTION 4. BALLOT QUESTION TWO: The form of the ballot for the *Charter* amendment provided for in Section 3 of this Ordinance shall be as follows:

Mayor; Deputy Mayor; Duties (Section 3.05).

The *City Charter* currently provides that the Mayor presides over meetings of the City Council. It is proposed that the *Charter* be amended to provide that the City Council annually determine which City Council member will serve as the presiding officer. If the Mayor is selected, the City Council shall select a Deputy Mayor. If the Mayor is not selected, then the council member who is selected as presiding officer shall serve as Deputy Mayor.

Shall the proposed *Charter* amendment be adopted?

Yes

No

SECTION 5. CITY MANAGER; APPOINTMENT; DISCHARGE. Section 4.01 of the *Charter of the City of Oviedo, Florida*, is proposed to be amended to read as follows:

Sec. 4.01. - City manager—Appointment, qualification, and compensation; responsibilities.

(1) The city council shall appoint, by affirmative vote of four (4) members of the city council, a city manager who shall be the administrative head of city government, answerable to and under the direction and supervision of the city council. The city manager shall receive such compensation as the city council may fix and determine, and shall furnish such bond as the city council may require. The city manager shall be chosen solely on the basis of his or her executive and administrative qualifications, without regard to his or her political belief, and shall be over the age of twenty-one (21) years.

(2) Acting city manager during absence or disability. By letter filed with the city clerk, the city manager shall designate a qualified administrative officer to exercise the powers and perform the duties of city manager during the city manager's temporary absence or disability. During such absence or disability, the city council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or his or her disability shall cease.

(3) Removal or discharge. The city manager may be removed or discharged at any time by resolution approved by three (3) members of the city council.

(4) Powers and duties. The city manager shall be responsible to the city council for the proper administration of all affairs of the city coming under his or her jurisdiction, and to that end the city manager shall:

- a. See that the laws and ordinances of the city are enforced. city manager's jurisdiction.
- c. Exercise control, direct, and supervise all activities of the municipal government, except as otherwise provided in this Charter; including, but not limited to, the disbursement of city funds.
- d. See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the city council, whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.
- e. Attend all meetings of the city council, with right to take part in the discussion, but without having a vote.
- f. Recommend to the city council for adoption such measures as he or she may deem necessary or expedient to the interest of the city.
- g. Keep the city council fully advised as to the financial conditions and needs of the city, and at b. Appoint, suspend, demote and/or remove any subordinate officers and employees under the proper time submit to the city council for its consideration an annual budget.
- h. Advise and consult with all officers and official heads of the several departments of the city relative to the affairs of such departments, and to make recommendations to the city council respecting such departments.
- i. Investigate and determine whether purchases of current supplies and contractual services are made in accordance, with regulations prescribed by Charter and ordinance, whether competitive conditions are maintained in a fair and impartial manner.
- j. Implement the purchasing policies of the city.
- k. Prepare an annual budget with estimates of revenues and expenses of the city government with a determination of the revenue to be raised each year.
- l. Sign such bonds, contracts and agreements of the city as ordered so to do by the city council in accordance with the city's purchasing policies.
- m. Promulgate personnel rules in accordance with applicable law.
- n. When authorized so to do by the city council, perform such other duties as may be required of the city manager by motion, direction, ordinance or resolution of the city council.

SECTION 6. BALLOT QUESTION THREE: The form of the ballot for the *Charter* amendment provided for in Section 5 of this Ordinance shall be as follows:

City Manager; Appointment; Discharge (Section 4.01).

The *City Charter* currently provides that the City Manager may be discharged by resolution of the City Council. It is proposed that the *Charter* be amended to clarify that 3 votes are required to terminate the City Manager. It is also proposed that the *Charter* be amended to add a requirement of 4 votes to hire the City Manager.

Shall the proposed *Charter* amendment be adopted?

Yes

No

SECTION 7. CITY POLICE AND FIRE DEPARTMENTS. Section 4.05 of the *Charter of the City of Oviedo, Florida*, is proposed to be amended to read as follows:

Sec. 4.05. - Police/fire department.

The City Council shall provide ~~municipally~~ for the public safety of the citizens of the City by taking actions which include, but are including but not limited to, the creation and maintenance of both police and fire departments unless four members of the City Council vote in favor of an alternative means of providing for the public safety protection.

SECTION 8. BALLOT QUESTION FOUR: The form of the ballot for the *Charter* amendment provided for in Section 7 of this Ordinance shall be as follows:

Police and Fire Departments (Section 4.05).

The *City Charter* currently does not provide for a mandatory Fire Department and Police Department. It is proposed that the *Charter* be amended to require that the City have and maintain such departments to provide for the public safety unless 4 members of the City Council vote in favor of an alternative method of providing for the public safety of the City.

Shall the proposed *Charter* amendment be adopted?

Yes

No

SECTION 9. MANAGING FINANCES; BORROWING MONEY; SELLING BONDS. Section 4.08.11 of the *Charter of the City of Oviedo, Florida* is proposed to be amended to read as follows:

Sec. 4.08.11. - Managing finances; borrowing money; selling bonds.

(a) The City shall be permitted to issue revenue bonds, notes, certificates of participation, lease purchase contracts or other instruments of indebtedness by the affirmative vote of four (4) City Council members at a public hearing held prior to the issuance of such bonds; provided that the total amount of indebtedness does not exceed \$5 million for infrastructure in any one calendar year and that the City's independent financial advisor certifies that debt limitations as

prescribed in City ordinance are not exceeded. The term "infrastructure" shall mean any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto, or a fire service vehicle, an emergency service vehicle, a police vehicle, or any other vehicle or equipment used in the course of providing public services, and such equipment necessary to outfit vehicles for official use, or equipment that has a life expectancy of at least 5 years.

(b) The requirements prescribed herein shall not apply to the limitations on the approval of general obligation debt imposed by the State Constitution.

(c) The City shall be permitted to issue revenue bonds and any other legally permitted instruments of indebtedness that exceed (5) five million dollars in any calendar year upon approval thereof by bond referendum approved by a majority of votes cast in such referendum.

(d) Bonds approved by referendum shall be excluded from the five million dollar limitation per calendar year as stated above. Self supporting utility revenue bonds shall be excluded from the five million dollar limitation per calendar year as stated above.

SECTION 10. BALLOT QUESTION FIVE: The form of the ballot for the *Charter* amendments provided for in Section 9 of this Ordinance shall be as follows:

Managing finances; borrowing money; selling bonds (4.08.11).

The City Charter currently provides that the City Council may issue revenue bonds and other instruments of indebtedness up to five million dollars per calendar year upon a vote of four of the City Council members. The proposed amendment clarifies that the City may issue other indebtedness by voter approval in a referendum, except that self supporting utility revenue bonds may be issued without a referendum even if they exceed the five million dollar limitation.

Shall the proposed *Charter* amendment be adopted?

Yes

No

SECTION 11. REFERENDUM ELECTION. A referendum election is hereby called to be held on the date of the 2010 General Election to present to the electors of the City of Oviedo the ballot questions provided for in this Ordinance. The Supervisor of Elections of Seminole County is hereby requested to coordinate all matters relating to the said referendum election with the City Clerk, the Division of Elections of the Florida Department of State, and the City Attorney. The City Clerk is directed to coordinate all matters relating to the referendum election and coordinate with the City Attorney as needed.

SECTION 12. DUTIES OF CITY CLERK. The City Clerk is hereby directed to ensure that the advertising and notice requirements of Section 100.342, *Florida Statutes*, are complied with and to coordinate all activities necessary to conduct the referendum election called in this Ordinance with the Supervisor of Elections for Seminole County.

SECTION 13. REVISED CHARTER OF THE CITY OF OVIEDO. If any amendment to the *Charter of the City of Oviedo* is approved by the electorate in the referendum election called for in this Ordinance, it is the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the *Charter of the City of Oviedo*; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or such other appropriate word as the case may demand. The City's Code codifier is granted broad and liberal power and authority to codify the *Charter of the City of Oviedo* in terms of making appropriate harmonizing, technical or editorial changes and notes that do not affect the substantive provisions thereof.

SECTION 14. SEVERABILITY. Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion thereof, other than the part so declared to be invalid.

SECTION 15. EFFECTIVE DATE. The provisions of this Ordinance shall take effect immediately upon enactment. Any Amendment to the *Charter of the City of Oviedo* proposed for approval in this Ordinance and approved by the electorate shall become effective only upon approval at a referendum election of the electors of the City of Oviedo in accordance with the provisions of Section 166.031, *Florida Statutes*; provided, however, that the provisions set forth herein shall be implemented as may be set forth in the particular provision.

FIRST READING: June 21, 2010

SECOND READING: August 2, 2010

PASSED AND ADOPTED THIS 2nd day of August A.D., 2010.



DOMINIC PERSAMPIERE
MAYOR of the City of Oviedo, Florida

ATTEST:


Barbara J. Barbour
City Clerk

