

**Ordinance No. 2020-4557**

**An ordinance of the City of Sanford, Florida calling for a referendum election to be held on November 3, 2020 for the purpose of proposing to the electorate of the City of Sanford a revision to the Section 2.06 of the *Charter of the City of Sanford* relating to City Commission vacancies (including Mayor); providing for ballot language; providing for the duties of the City Clerk; providing for inclusion in the *Charter of the City of Sanford* and powers and authority for the code codifier; providing for severability and providing for effective date of ordinance and effective date of the proposed *Charter* amendment.**

**Whereas,** controlling State law and the *Charter of the City of Sanford, Florida* provide for alternative means whereby the *City Charter* may be amended; and

**Whereas,** the City Commission of the City of Sanford has concluded that it is in the best interests of the citizens of the City of Sanford for the City Commission to propose amendments to the *Charter of the City of Sanford* at a referendum election in accordance the *Charter of the City of Sanford* and Section 166.031, *Florida Statutes*, and in the form set forth herein; and

**Whereas,** the recitals (whereas clauses) herein represent the legislative findings and intent of this Ordinance; and

**Whereas,** words with underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

**Now, Therefore, be it Enacted By the People of the City of Sanford, Florida, as follows:**

**Section 1. Proposed Revision Of Section 2.06, *City Charter*; Filling Of Vacancies.** Section 2.06 of the *Charter of the City of Sanford, Florida*, is proposed to be amended to read as follows:

**Section 2.06. - Vacancies; forfeiture of office; filling of vacancies.**

(a) Vacancies. The office of Mayor or City Commissioner shall become vacant upon death, resignation, removal from office in any manner authorized by law or forfeiture of office.

(b) Forfeiture of office. A Mayor or City Commissioner shall forfeit office if the Mayor or City Commissioner:

(1) lacks at any time during his or her term of office any qualification for the office prescribed by this charter or by law;

(2) violates any express prohibition of this Charter;

(3) is convicted of a crime involving moral turpitude, or

(4) fails to attend three consecutive regular meetings of the City Commission without being excused by the vote of the City Commission.

(c) Filling of vacancies. A vacancy in the office of Mayor or City Commissioner shall be filled for the remainder of the unexpired term of the position at a regular election if one shall occur within one hundred and twenty (120) days, but not sooner than ninety (90) days, of the occurrence of a vacancy, if possible under controlling law, and coordination with the Supervisor of Elections. If a regular election is not able to be scheduled as set forth in the prior sentence, then, and in that event, a special election to fill the vacancy shall be held as soon as possible following the occurrence of a vacancy in accordance with controlling law and coordination with the Supervisor of Elections. If the vacancy occurs in the office of Mayor, the remaining City Commissioners shall determine which City Commissioner shall serve as the presiding officer until a Mayor is elected. If a regular City election is able to be held to fill the

vacancy, then the candidate elected in the regular elections shall take office as soon as legally possible after the election occurs. The City Commission may, in its discretion, appoint an interim City Commissioner to serve until the date an election occurs to fill the vacancy who may not stand for election at the election to be held to fill the vacancy. At the time a vacancy in the Commission occurs, if there is less than six (6) months before the next regular City election, said vacancy in the Commission shall be filled by vote of the remaining members of the Commission within 30 days after said vacancy shall occur. The person appointed shall hold office for the remainder of the unexpired term and shall be a qualified Commissioner meeting all qualifications under law. At the time the vacancy occurs, if there is more than six (6) months before the next regular City election, a special election shall be set no sooner than sixty (60) days and no later than ninety (90) days following the occurrence of the vacancy and no temporary appointment shall be made by the Commission.

**Section 2. Ballot Question.** The form of the ballot for the *Charter* amendment provided for in Section 1 of this Ordinance shall be as follows:<sup>1</sup>

<sup>1</sup> See, Section 101.161, *Florida Statutes*, relating to referenda and ballots relating thereto. The statutory provision provides as follows:

*101.161 Referenda; ballots.—*

(1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word “yes” and also by the word “no,” and shall be styled in such a manner that a “yes” vote will indicate approval of the proposal and a “no” vote will indicate rejection. The ballot summary of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. The ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. In addition, for every amendment proposed by initiative, the ballot shall include, following the ballot summary, a separate financial impact statement concerning the measure prepared by the Financial Impact Estimating Conference in accordance with s. 100.371(5). The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. This subsection does not apply to constitutional amendments or revisions proposed by joint resolution.

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(2) The ballot summary and ballot title of a constitutional amendment proposed by initiative shall be prepared by the sponsor and approved by the Secretary of State in accordance with rules adopted pursuant to s. 120.54. The Department of State shall give each proposed constitutional amendment a designating number for convenient reference. This number designation shall appear on the ballot. Designating numbers shall be assigned in the order of filing or certification and in accordance with rules adopted by the Department of State. The Department of State shall furnish the designating number, the ballot title, and, unless otherwise specified in a joint resolution, the ballot summary of each amendment to the supervisor of elections of each county in which such amendment is to be voted on.

(3)(a) Each joint resolution that proposes a constitutional amendment or revision shall include one or more ballot statements set forth in order of priority. Each ballot statement shall consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language. If a joint resolution that proposes a constitutional amendment or revision contains only one ballot statement, the ballot summary may not exceed 75 words in length. If a joint resolution that proposes a constitutional amendment or revision contains more than one ballot statement, the first ballot summary, in order of priority, may not exceed 75 words in length.

(b) The Department of State shall furnish a designating number pursuant to subsection (2) and the appropriate ballot statement to the supervisor of elections of each county. The ballot statement shall be printed on the ballot after the list of candidates, followed by the word “yes” and also by the word “no,” and shall be styled in such a manner that a “yes” vote will indicate approval of the amendment or revision and a “no” vote will indicate rejection.

(c)1. Any action for a judicial determination that one or more ballot statements embodied in a joint resolution are defective must be commenced by filing a complaint or petition with the appropriate court within 30 days after the joint resolution is filed with the Secretary of State. The complaint or petition shall assert all grounds for challenge to each ballot statement. Any ground not asserted within 30 days after the joint resolution is filed with the Secretary of State is waived.

2. The court, including any appellate court, shall accord an action described in subparagraph 1. priority over other pending cases and render a decision as expeditiously as possible. If the court finds that all ballot statements embodied in a joint resolution are defective and further appeals are declined, abandoned, or exhausted, unless otherwise provided in the joint resolution, the Attorney General shall, within 10 days, prepare and submit to the Department of State a revised ballot title or ballot summary that corrects the deficiencies identified by the court, and the Department of State shall furnish a designating number and the revised ballot title or ballot summary to the supervisor of elections of each county for placement on the ballot. The revised ballot summary may exceed 75 words in length. The court shall retain jurisdiction over challenges to a revised ballot title or ballot summary prepared by the Attorney General, and any challenge to a revised ballot title or ballot summary must be filed within 10 days after a revised ballot title or ballot summary is submitted to the Department of State.

(4)(a) For any general election in which the Secretary of State, for any circuit, or the supervisor of elections, for any county, has certified the ballot position for an initiative to change the method of selection of judges, the ballot for any circuit must contain the statement in paragraph (b) or paragraph (c) and the ballot for any county must contain the statement in paragraph (d) or paragraph (e).

(b) In any circuit where the initiative is to change the selection of circuit court judges to selection by merit selection and retention, the ballot shall state: “Shall the method of selecting circuit court judges in the (number of the circuit) judicial circuit be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?” This statement must be followed by the word “yes” and also by the word “no.”

(c) In any circuit where the initiative is to change the selection of circuit court judges to election

**Filling Of Vacancies On City Commission (Mayor Included).**

An amendment to amend the *Sanford City Charter* to provide for the filling of vacancies on the City Commission (including the office of Mayor) is proposed. The proposal will result in the electorate choosing replacement Mayors or City Commissioners for vacancies as opposed to appointments by the City Commission as is mostly done at present. Interim appointments could be made pending the results of an election. Interim appointees would not be eligible for election.

Yes           

No            

**Section 3. Referendum Election.**

A referendum election is hereby called to be held November 3, 2020, to present to the electors of the City of Sanford the ballot question 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 Manager, City Clerk and City

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by the voters, the ballot shall state: "Shall the method of selecting circuit court judges in the (number of the circuit) judicial circuit be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(d) In any county where the initiative is to change the selection of county court judges to merit selection and retention, the ballot shall state: "Shall the method of selecting county court judges in (name of county) be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(e) In any county where the initiative is to change the selection of county court judges to election by the voters, the ballot shall state: "Shall the method of selecting county court judges in (name of the county) be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a

Attorney.

**Section 4. 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 5. Revised *Charter Of The City Of Sanford*.**

If the proposed amendments to the *Charter of the City of Sanford* is approved by the electorate in the referendum election called for in this Ordinance, it is the intention of the City Commission, and it is hereby ordained, that the approved provisions of this Ordinance shall become and be made a part of the *Charter of the City of Sanford*. The City's Code codifier is granted broad and liberal power and authority to codify the *Charter of the City of Sanford* in terms of making appropriate harmonizing, technical or editorial changes and notes that do not affect the substantive provisions thereof.

**Section 6. 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 7. Effective Date.**

The provisions of this Ordinance shall take effect immediately upon enactment. The amendments to the *Charter of the City of Sanford* proposed for approval in this

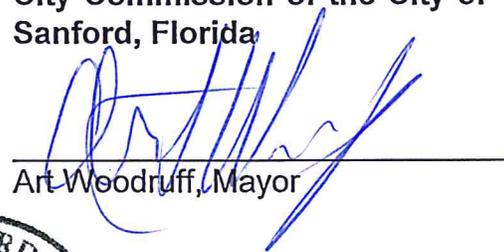
Ordinance shall become effective only upon approval at a referendum election of the electors of the City of Sanford in accordance with the provisions of Section 166.031, *Florida Statutes*.

Passed and adopted this 27th day of July, 2020.

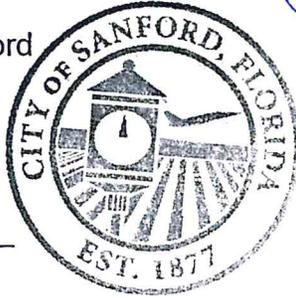
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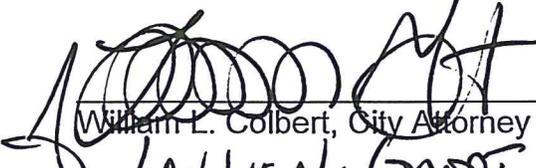
City Commission of the City of  
Sanford, Florida

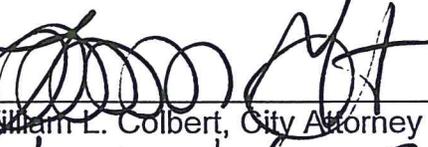
  
Traci Houchin, City Clerk, MMC, FCRM

  
Art Woodruff, Mayor

For use and reliance of the Sanford  
City Commission only.  
Approved as to form and legality.



  
William L. Colbert, City Attorney

  
LONNIE N. GROOT  
ACA



CITY OF  
**SANFORD**  
FLORIDA

WS \_\_ RM X

Item No. 7.B

**CITY COMMISSION MEMORANDUM 20-125**  
**JULY 27, 2020 AGENDA**

**TO:** Honorable Mayor and Members of the City Commission  
**PREPARED BY:** Traci Houchin, MMC, FCRM, City Clerk  
**SUBMITTED BY:** Norton N. Bonaparte, Jr., City Manager  
**SUBJECT:** Alternative Ordinances Relating To *City Charter* Amendment; City Commission Vacancies; Ordinance No. 4557

**STRATEGIC PRIORITIES:**

- Unify Downtown & the Waterfront
- Promote the City's Distinct Culture
- Update Regulatory Framework
- Redevelop and Revitalize Disadvantaged Communities

**SYNOPSIS:**

The City Commission is being requested to adopt of Ordinance No. 4557, amending the City Charter, relating to vacancies on the City Commission.

**FISCAL/STAFFING STATEMENT:**

There are no anticipated costs to the City except for nominal costs. If the referendum election on the proposed *City Charter* amendments is not heard in conjunction with the State's General Election on November 3, 2020; the City could incur substantial costs resulting from a special election.

The Supervisor of Elections generally requires that matters to be placed before the electorate be finalized at least 90 days prior to the election in order to facilitated ballot preparation and distribution of ballots to overseas and military voters. Since the State Primary Election: date is August 18, 2020; the latest date to provide the Supervisor of Elections with the ballot language would be the day after that Election is held.

The earlier finalization of this matter results in the least likelihood of any administrative glitches, the least impact on staff time that may need to be devoted to other matters and the least likelihood of an emergency arising that would cancel meetings or the like such as a hurricane or a COVID 19 related matter.

**BACKGROUND:**

The City Commission has discussed the current requirements of the *City Charter* when a vacancy occurs in the office of Mayor or City Commission. The City Commission also discussed potential amendment of the City Charter to modify the provisions of the City Charter to provide for a better

likelihood of an election by the electorate of the City filling a vacancy as opposed to an appointment by the City Commission.

**LEGAL REVIEW:**

The City Attorney has assisted in the development of the alternative versions of Ordinance No. 4557 (Options A & B).

The City Commission approved the first reading of Ordinance No. 4557 (Option A) on July 13, 2020.

The City Clerk published notice of the 2<sup>nd</sup> Public Hearing in the Sanford Herald on July 19, 2020.

**RECOMMENDATION:**

City staff recommends that the City Commission adopt Ordinance No. 4557.

**SUGGESTED MOTION:**

“I move to adopt Ordinance No. 4557.”

Attachments: Ordinance No. 4557