

ORDINANCE 2013-01

AN ORDINANCE AMENDING CHAPTER 8, ELECTIONS, LAKE WALES CODE OF ORDINANCES; AMENDING VARIOUS SECTIONS OF THE MUNICIPAL ELECTION CODE TO CONFORM TO AMENDMENTS TO THE CITY CHARTER AND FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1. Chapter 8, ELECTIONS, Lake Wales Code of Ordinances, is amended to read as follows:

ARTICLE I. GENERAL PROVISIONS.

Sec. 8-1. Short title.

This chapter shall be known and may be cited as the "Lake Wales Municipal Election Code."

Sec. 8-2. Legislative intent.

(a) It is the intent of this ordinance to consolidate all rules and procedures provided by Florida Statutes, the Charter of the City of Lake Wales, and various city ordinances relating to elections and election administration into a unified and comprehensive election code.

(b) It is the intent of this ordinance to eliminate inconsistencies and conflicts in notice requirements, duration of time between the call of elections and holding of elections, and other procedures relating to election administration by conforming city requirements to provisions of Florida Statutes.

(c) It is the intent of this ordinance to ensure that all city elections shall be conducted in a proper, orderly, and fair manner so as to permit the will of the electorate to be determined; to ensure that campaigns for elective city office shall be conducted on a nonpartisan basis with the qualifications and character of the respective candidates, not party affiliation, being the criteria for the voter's choice; and to ensure that issue elections shall be conducted in a manner so as to permit the free and robust exchange of ideas and opinions while avoiding unfair and improper campaign tactics which abuse the open debate that is vital to a democratic form of government.

Sec. 8-3. Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Absent elector or absentee voter means any qualified and registered elector of the city who casts an absentee ballot.

Ballot or official ballot means:

- (1) When voting machines are used, that portion of the printed strips of paper or other material within the ballot frames containing the names of candidates or ballot question of an issue to be voted upon at a city election;

- (2) When paper ballots are used, a printed sheet of paper containing the names of candidates or ballot question of an issue to be voted upon at a city election;
- (3) When electronic devices are used, a ballot voted by the process of punching or marking with a marking device for tabulation by automatic tabulating equipment or data processing equipment; or
- (4) When absentee ballots are used, a printed sheet of paper or other material containing the names of candidates or ballot question of an issue to be voted upon at a city election.

Candidate means any individual to whom one or more of the following apply; F.S. 97.021 (5):

- (1) Any individual who files qualification papers and subscribes to a candidate's oath as required by section 8-40;
- (2) Any individual receiving contributions or making expenditures, or giving consent for another person to do so, with the intent of bringing about that individual's election to city office;
- (3) Any individual who appoints a treasurer and designates a primary depository pursuant to F.S. § 106.021; or
- (4) ~~Any individual seeking to qualify for election by means of an alternative method.~~ Any person who seeks to qualify for nomination or election by means of the petitioning process.
- (5) Any person who seeks to qualify for election as a write-in-candidate.
 - (a) Each candidate is personally responsible for compliance with Chapter 106 requirements to appoint a campaign treasurer and designate a campaign depository; maintain records of contributions and expenditures; file certified statements of contributions and expenditures with the city clerk. Noncompliance will result in a fine for each late day.

City Clerk means the duly appointed City Clerk of the city of Lake Wales.

City commission or *commission* means the elected governing body of the City of Lake Wales.

Commissioner means an individual elected to serve on the city commission.

- (1) *At-large Commissioner* means a commissioner who may reside anywhere in the city for purposes of nomination and qualification for election.
- (2) *District Commissioner* means a commissioner who must reside within a specific geographical district for purposes of nomination and qualification for election.

Department of State means the State of Florida Department of State.

Deputy City Clerk means the person designated to assist in the official duties of the City Clerk under the supervision of the City Clerk and perform the official duties of the City Clerk during the absence of the City Clerk.

Division of Elections means the division of elections of the Department of State.

Election means any city election, whether to choose elected officials or consider issues, and includes run-off elections and special elections.

Elector or *Voter* means a qualified resident of the city on the day of the election properly registered in accordance with The Florida Voter Registration Act, Chapter 97, F.S.

Extraordinary vacancies means in the event that all members of the commission are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim commission that shall call a special election and such election shall be governed by the provisions of Article VIII of the City Charter, Section 3.08.

Filling of Vacancy means that a vacancy of the commission shall be filled by majority vote of the remaining commission members. The interim commissioner shall serve until the seat is filled in the normal course by the electorate and the next elected commission member takes office.; City Charter Section 3.08.

Forfeiture of office means a commission member shall forfeit the office if at any time during the term of office any qualifications for the office prescribed by City Charter or by law are lacking.; City Charter Section 3.08.

F.S. means the laws of the State of Florida as compiled and published in *Florida Statutes*, 2012 edition and as amended from time to time.

Issue means a proposed amendment to the city charter, a proposed enactment of an ordinance by initiative ~~pursuant to section 3-10 of the city charter~~, a proposed repeal of an ordinance by referendum ~~pursuant to section 3-10 of the city charter~~, recall of an elected official, an authorization to issue bonds or other forms of indebtedness, a proposed annexation of territory into the city, straw ballot, or any other public question to be voted upon by the electors of the city pursuant to state law, city charter, local ordinance, or call of the city commission.

Issue election means an election called for the purpose of approving or disapproving an issue.

Newspaper of general circulation means a newspaper printed in the language most commonly spoken in the city and which is readily available for purchase by all inhabitants in the city, but does not include a newspaper intended primarily for members of a particular profession or occupational group, a newspaper the primary function of which is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

Nominating petition means an official form provided by the City Clerk for the purpose of obtaining signatures in support of a candidate seeking election to the office of a district city commissioner or at-large city commissioner and requesting that the candidate's name be placed upon the official city ballot.

Nonpartisan or *nonpartisan office* means an office for which a candidate is prohibited from campaigning or qualifying as a candidate for election based on, or with reference to, political party affiliation.

Office or *city office* means a position of the city filled by the electors at an election.

Person means an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate or other combination of

individuals having collective capacity.

Political committee means a combination of two or more individuals, or a person other than an individual, the primary or incidental purpose of which is to support or oppose any candidate or issue and which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$500.

Polling place means ~~a particular room or area~~ the building which contains the polling room where ballots are cast; F.S. Chapter 97.021 (26) .

Polling room means the actual room in which ballots are cast on election day and during early voting; F.S. Chapter 97.021 (27).

Precinct means that geographic area designated by the board of county commissioners upon recommendation of the supervisor of elections pursuant to F.S. §§ 101.001 and 101.002.

Qualifying means the procedure pursuant to section 8-44, whereby an individual causes his name to be placed on the ballot for the next city election as a candidate for city office.

Regular city election means an election to fill the office of district city commissioner and/or at-large city commissioner held on the date prescribed in section 8-18(a).

Run-off election means an election to fill the office of the city commissioner between the two (2) candidates receiving the largest number of votes in an earlier election.

Special election means an election called for the purpose of filling a vacancy in elected city office or to approve or disapprove an issue.

Supervisor means the supervisor of elections of Polk County, Florida.

Vacancies means the office of a commission member shall become vacant upon the member's 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 commission; City Charter Section 3.08.

Voting machine means that electromechanical or electronic equipment or device approved or certified by the department of state pursuant to F.S. §§ 101.28, 101.294 or 101.5605, used to cast ballots in an election, and owned or provided by the supervisor of elections of the county.

b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

The word "*shall*" is always mandatory and not discretionary; the word "*may*" is permissive.

The words "*he*," "*his*," and other words denoting the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Words used in the present tense shall include the future, and words used in the singular number shall include the plural and plural the singular, unless the context clearly indicates the contrary.

Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "*and*," "*or*" or "*either...or*," the conjunction shall be interpreted as follows:

- (1) "*And*" indicates that all the connected terms, conditions, provisions or events shall apply.
- (2) "*Or*" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
- (3) "*Either...or*" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- (4) The word "*includes*" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Sec. 8-4. Misuse of official position.

(a) No officer or employee of the city, except as hereinafter exempted from the provisions of this section, shall:

- (1) Use his official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof;
- (2) Directly or indirectly coerce or attempt to coerce, command or advise any other officer or employee to pay, lend, or contribute any part of his salary, any sum of money, or anything else of value to any political party, committee, organization, agency, or person for political purposes; provided, however, nothing in this subsection shall prohibit a city employee from suggesting to another city employee in a noncoercive manner that he may voluntarily contribute to a fund which is administered by a political party, committee, organization, agency, person, labor union, or other organization for political purposes.
- (3) Directly or indirectly coerce or attempt to coerce command or advise any city officer or employee as to where he might purchase commodities or to interfere in any other way with the personal right of such officer or employee for, or as a result of, political purposes.

(b) The provisions of this section shall not be construed so as to prevent any city officer or employee from becoming a candidate for and actively campaigning for any elective office in this state. All such persons shall retain the right to vote as they may choose and to express opinions on any political subject and candidate. The provision of subsection (a)(1) of this section shall not be construed so as to limit the political activity in general, special, primary, bond, referendum or any other election of any kind or nature, of elected officials or candidates for office in the city.

(c) Nothing contained in this section or in the city charter shall be deemed to prohibit any public employee from expressing his opinions on any candidate or issue or from participating in any political campaign during his off-duty time so long as such activities are not prohibited by this section.

(d) Any officer or employee of the city using his official position to support or oppose a candidate for elective city office shall be guilty of an unfair campaign practice and a municipal ordinance violation punishable as provided in section 1-15 of the city code, provided that this subsection shall not prohibit public endorsements or other expressions of support or opposition.

Sec. 8-5. Unfair campaign practices.

(a) It shall be an unfair campaign practice for a candidate to elective city office, or an agent or authorized representative thereof on the behalf of such candidate, to:

- (1) Campaign by way of announcements, publications, or other forms of political advertising, as a registered member of any political party;
- (2) Campaign by way of announcements, publications, or other forms of political advertising in such a manner as to indicate that such candidate is not a registered member of a particular political party;
- (3) Solicit or accept contributions, or open assistance or support from any political party or from any partisan political club or association affiliated with any political party; or
- (4) Participate in any partisan political party function; provided, however, that such candidate or agent thereof may register and vote as a member of a political party and may attend and speak at a political party function or event, provided all candidates for city office have been invited and permitted to participate in the same manner and to the same extent.

(b) Any person committing an act prohibited by this section shall be guilty of an unfair campaign practice and a municipal ordinance violation punishable as provided in section 1-15 of this code.

Sec. 8-6. Political signs.

(a) Political campaign signs shall be placed and removed in accordance with the provisions of the sign ordinance of the city. Political campaign signs shall be placed only on private property with the permission of the property owner, and no political campaign signs shall be placed on public property.

(b) Pursuant to Sec. 23-545.6 (4), The unauthorized alteration, destruction, or removal of a political sign of a candidate or political committee, other than its removal by a ~~city employee code enforcement officer~~ enforcing the city sign ordinance shall constitute an unfair campaign practice and a municipal ordinance violation punishable as provided in section 1-15 of this code.

Sec. 8-7. Election code of the state —applicability.

Those acts and practices prohibited in Chapter 104, F.S., shall be prohibited in all elections conducted pursuant to this chapter and shall be punishable as provided in Chapter 104, F.S.

Sec. 8-8. Campaign financing laws of the state —applicability.

(a) Any candidate for elective city office, including an elected officer sought to be recalled, is subject to, and shall comply with the campaign financing laws provided in Chapter 106, F.S.

(b) Any group, club, association, or other combination of persons having a collective capacity which receives contributions or makes expenditures in an aggregate amount exceeding five hundred dollars (\$500.00) and which seeks to influence the results of a city election shall constitute a political committee within the definition of Chapter 106, F.S., and shall register and report as such pursuant to, and be subject to, the provisions of that chapter.

(c) Any individual making independent expenditures in an aggregate amount exceeding one hundred dollars (\$100.00) and seeking to influence the results of a city election shall be subject to, and comply with, Chapter 106, F.S.

(d) The city commission may appropriate funds for the purpose of providing informational materials to the public in connection with any issue election, except for a recall election. The city commission shall not be considered a political committee as defined in F.S. § 106.011(1), and shall not be required to file reports of any such informational expenditures pursuant to F.S. § 106.07.

(e) The city clerk shall provide each candidate with a schedule indicating the beginning and the end of the reporting periods as well as the corresponding designated due dates. Each required financial report shall be filed with the city clerk without additional notice to the candidate or committee by the city clerk that such report is due. Pursuant to F.S. § 106.07, the city clerk shall assess fines for late filing and report to the Florida Elections Commission the failure of a candidate or committee to comply with campaign finance reporting requirements.

(f) Provisions of Chapter 106, F.S., shall be enforced in the manner provided in F.S. §§ 106.25 through 106.28. Any suspected or alleged violations of Chapter 106, F.S., in connection with any issue election, shall be transmitted to the state division of elections by the city clerk.

Secs. 8-9—8-15. Reserved.

ARTICLE II. ELECTION ADMINISTRATION

Sec. 8-16. Voter registration.

(a) The city does hereby recognize and adopt the permanent single registration system for the registration of electors established by F.S. § 97.105. Individuals residing within the corporate limits of the city otherwise qualified and registered to vote in accordance with Chapter 97, F.S., are the electors of the city.

(b) No individual residing within the corporate limits of the city registering to vote less than twenty-nine (29) days prior to any city election shall be permitted to vote in that election.

(c) Any registered elector of the city may be removed from the registration records pursuant to F.S. § 98.081.

Sec. 8-17. City Clerk designated chief elections officer.

(a) The City Clerk is hereby designated the chief elections officer of the city and shall see that all city elections are conducted in a proper and legal manner.

(b) Any issue election called pursuant to article IV shall be conducted and administered pursuant to the procedures set forth in applicable state law or this chapter.

Sec. 8-18. Date of election; term of office

(a) Pursuant to authority provided by F.S. § 100.3605, the city ~~hereby adopts~~ adopts the first Tuesday in April as the date for all regular city elections to fill the office of city commissioner.

~~(b) For the purpose of an orderly transition pursuant to the change in city election date effected by the adoption of Ordinance 2003-15, terms of office shall be adjusted as provided herein:~~

- (1) ~~The current term of each city commission member presently serving shall be extended in accordance with the following schedule:~~

Commission Seat	Current Expiration	Extended Expiration
1	October 2004	May 2005
2	October 2004	May 2005
3	October 2005	May 2006
4	October 2006	May 2007
5	October 2003	May 2004

- (2) ~~In the election to be held in April 2004 and in all elections thereafter, city commissioners shall be elected to serve regular four year terms which shall begin during the first meeting in May and expire during the first meeting in May four years later.~~
- (3) ~~The mayoral term expiring in October 2003 shall expire in May 2004. In the election to be held in April 2004 and in all elections thereafter, a city commissioner shall be elected to serve as mayor for a regular one year term which shall begin during the first meeting in May and expire during the first meeting in May one year later. If no eligible commissioner qualifies as a candidate for the office of mayor, the commission shall at its first meeting in May elect by majority vote one of its members to be mayor of the city for the ensuing year.~~
- (4) ~~Pursuant to authority provided by F.S. § 100.3605, those provisions of sections 3.05, 8.01 and 8.07 of the City Charter pertaining to commencement and expiration of terms of office shall be amended as provided above.~~
- (b) ~~If no candidate for a particular seat on the commission receives a majority of the votes cast in the regular election, a runoff election between the two candidates receiving the largest number of votes for said seat shall be held two (2) weeks after the regular city election held in accordance with paragraph (a) of this section.~~
- (c) ~~A special election to fill a vacancy on the commission shall be held on the date set forth in the resolution by the city commission calling the election pursuant to sections 8-50 and 8-67.~~
- (b) Pursuant to City Charter Section 8.07, commission members shall serve for two-year terms and shall take office at the first regular meeting in the month following their election, except that in accordance with City Charter Section 3.05, any commissioner who runs for mayor, elected or not, shall lose his commission seat effective the day of election and the candidate elected to fill the vacated seat shall serve for the remainder of the term.
- (ec) Whenever possible, issue elections shall be held in conjunction with a regularly scheduled city election. When it is not possible to hold an issue election in conjunction with a regularly scheduled election, it shall be held on the date prescribed by applicable state law or by the city ordinance or resolution calling the election.

Sec. 8-19. Precincts.

(a) Those precincts approved by the board of county commissioners pursuant to F.S. § 100.001 lying within the municipal limits are hereby designated as the city precincts to be used in any and all city elections. This subsection constitutes the concurrence of the city to the conforming of the precinct boundaries to the boundaries of the city per F.S. § 101.002(1).

(b) The city clerk shall forward a certified copy of any annexation ordinance approved by the city commission to the supervisor of elections with a detailed map showing boundaries of the area annexed and a listing of streets and street numbers lying within the area. Precinct boundaries may be altered to conform to the municipal boundaries as changed due to annexation.

(c) If a precinct boundary is unable to be altered to conform to annexation by the date of a city election, any qualified elector residing within the area annexed shall be eligible to vote in the city election.

(d) The city clerk shall verify to the supervisor of elections the accuracy of the city's address database no later than sixty (60) days prior to a city election.

Sec. 8-20. Polling places.

(a) There shall be one polling place located within each precinct which complies with the requirements of F.S. Chapter 101. Polling places shall be designated by the supervisor of elections and shall be used for city elections.

(b) In accordance with February 3, 2012, City Commission action, the polling place for all city elections will be held at the City of Lake Wales Administration Building located at 201 W. Central Avenue, Lake Wales, 33853. The City Commission has the authority to add additional polling places for any City election.

Sec. 8-21. Voting method.

(a) The electronic or electromechanical voting method adopted by the supervisor of elections as approved by the Department of State shall be used for city elections.

(b) Pursuant to the provisions of F.S. § 101.6102, the city commission may authorize the use of a mail ballot in a referendum election.

Sec. 8-22. Ballots.

(a) Ballots shall be prepared by the city clerk in accordance with sections 8-45 and 8-69 and approved by the city commission.

(b) The city clerk shall forward the approved city ballot to the supervisor of elections no later than the 46th day prior to the election for printing and insertion in the voting machines or other voting devices, as applicable, and distribution to absentee electors.

(c) A sample ballot shall be published in a newspaper of general circulation prior to the day of the election, but no more than ten (10) days prior to election. The ballot shall be published in a section of the newspaper which is not used for legal notices or classified advertising.

Sec. 8-23. Poll workers.

(a) At each polling place there shall be a sufficient number of poll workers to accommodate the anticipated number of voters. The supervisor of elections and city clerk shall determine the necessary number and report it, together with the names of the poll workers, to the city commission prior to the date of the election. The city commission shall appoint the poll workers for any city election.

(b) All poll workers for a city election shall have completed training classes conducted by the supervisor of elections.

(c) One poll worker in each precinct shall be designated the precinct clerk and shall be in charge of, and responsible for, the conduct of the election at that polling place.

(d) Poll workers shall conduct the election and at the close of the polls ascertain the results for that precinct in the manner provided in Chapters 101 and 102, F.S., and report the results in the manner directed by the supervisor of elections or the city clerk, as applicable.

(e) Poll workers for a city election shall be compensated for hours worked by the city clerk. The rate of compensation shall be the same as that paid by the supervisor of elections for work performed in conducting the last state election.

Sec. 8-24. Voting —at polling place.

(a) The polls shall be open for voting on the day of the election at 7:00 a.m. and shall be kept open for voting until 7:00 p.m.

(b) Electors shall cast their votes in the manner provided in Chapter 101, F.S.

Sec. 8-25. Voting —absentee.

(a) An elector may request an absentee ballot and cast an absentee vote in any city election.

(b) Absentee ballots for city elections shall be prepared, distributed and received for canvassing by the county supervisor of elections.

(c) Absentee ballots shall be requested from the supervisor of elections in accordance with F.S. § 101.62 and voted in accordance with F.S. §§ 101.64 through 101.67.

Sec. 8-26. Canvass of returns.

(a) The city commission shall be the canvassing board for any city election, except that any commissioner who is the subject of a recall pursuant to F.S. § 100.361 shall not participate in the canvassing of that issue. However, if a commissioner whose seat is up for re-election or if that commissioner is unable to serve on the canvassing board for any other necessary reason, the commission may appoint the city manager, city attorney, or a resident/s of the city to serve in that commissioner's place so that a quorum can be met.

(b) Public notice of the time and place at which the canvassing board shall meet to canvass the election returns and absentee ballots shall be provided at least forty-eight (48) hours prior thereto by publication once in the nonlegal section of a newspaper of general circulation in the city.

(c) The result of the voting, when ascertained, shall be certified by return in accordance with procedures established by the supervisor of elections, and delivered to the city clerk. The city clerk

shall transmit such return to the ~~city commission~~ canvassing board at a meeting designated for the canvass of returns.

(d) The ~~city commission~~ canvassing board shall begin the canvass of returns on ~~or before noon of the day following the election~~ a date and time as designated by the supervisor of elections. The result as shown by such return shall be declared as the result of the election by the ~~commission~~ canvassing board.

(e) The ~~commission~~ canvassing board shall canvass the returns in accordance with F.S. § 102.141(3), and shall canvass absentee ballots in accordance with F.S. § 101.68.

(f) At such time as the ~~commission~~ canvassing board has canvassed the returns, disposed of any challenges thereto, and ascertained and certified the results, the city clerk shall issue a certificate of election to each candidate elected and issue and file a certificate of election for each issue.

Sec. 8-27. Recounts.

(a) In its discretion, ~~the city commission,~~ as the canvassing board may order a recount of the returns of any election prior to the certification of the results.

(b) If the returns for any office reflect that a candidate was defeated or eliminated by one-half of a percent (.5%) or less of the votes cast for such office, that a commissioner subject to recall was retained or not retained by one-half of a percent (.5%) or less of the votes cast on the question of recall, or that an issue appearing on the ballot was approved or rejected by one-half of a percent (.5%) or less of the votes cast on such measure, the canvassing board shall order a recount of the votes cast with respect to such office or issue. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated, recalled or eliminated from contention for such office request in writing that a recount not be made. The canvassing board shall examine the counters on the machines or the tabulation of the ballots cast in each precinct in which the office or issue appeared on the ballot and determine whether the returns correctly reflect the vote cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

(c) Upon request of any candidate for good cause shown, the canvassing board may, prior to the final certification of results, order a recount in whole or in part of the election in which the candidate participated. Upon request of any elector for good cause shown, the canvassing board may, prior to final certification of results, order a recount of any issue election.

Sec. 8-28. Protest.

A candidate or any elector qualified to vote in the election related to such candidacy may file a protest of the election returns pursuant to F.S. § 102.166 in the form prescribed in F.S. § 102.167. The canvassing board shall consider the protest as provided in F.S. § 102.166 if filed with that board.

Sec. 8-29. Contest.

(a) An unsuccessful candidate may contest the results of the election in which he participated as provided in F.S. § 102.168.

(b) A taxpayer of the city may contest the results of any question or issue submitted to a vote of

the electors as provided in F.S. § 102.168.

(c) If the unsuccessful candidate filing a contest is determined to be entitled to the office, and some other individual has been issued a certificate of election or entered upon the duties of the office, a judgment of ouster may be entered by the circuit court and the contestant shall assume that office.

(d) If a judgment is entered setting aside an issue election, the election shall be regarded as having been void.

Sec. 8-30. Voting System Audit.

- (a) In accordance with F.S. 101.591, immediately following the certification of each election, the city canvassing board at a publically advertised meeting shall conduct a manual audit of the voting systems used in randomly selected precincts.
- (b) The audit shall consist of a public manual tally of the votes cast in one randomly selected race by the canvassing board that appears on the ballot.
- (c) The audit must be completed and the results made public no later than 11:59 on the 7th day following certification of the election by the county by the canvassing board.
- (d) The canvassing board shall post a notice of the audit, including the date, time, and place, in four conspicuous places in the county and on the home page of the city’s website.
- (e) Within 15 days after completion of the audit, the canvassing board shall provide a report with the results of the audit to the Department of State in a standard format as prescribed by the department which shall contain the information in accordance with this chapter.

Secs. 8-301—8-35. Reserved.

ARTICLE III. COMMISSION ELECTION.

Sec. 8-36. Commission Seats.

(a) *Allocation of commission Seats.* In accordance with Sec. 3.01 of the City Charter, there shall be five seats on the city commission. Commission seats shall be allocated as follows:

- Seat 1 At-Large
- Seat 2 Commission District 19
- Seat 3 Commission District 122
- Seat 4 Commission District 27
- Seat 5 Commission District 28

(b) *Election to commission seats.* Candidates for the office of city commission member shall qualify for and be elected to a specific commission seat. District commission members shall be qualified electors of and reside within the district or area for which the seat is allocated. District commission members shall be nominated by qualified electors residing within their district or area. ~~If an at-large seat is allocated on the city commission, candidates for such seat~~ Candidates for the at-large seat shall be qualified electors and residents of the city and shall be nominated by qualified electors residing in any district of the city. Nominations shall comply with the requirements of Section 8-43 of this chapter. Candidates for all commission seats shall be elected

by the voters of the city at large.

Sec. 8-37. Qualifying period.

(a) The qualifying period for a regularly scheduled commission election shall begin at 12:00 noon on the 50th day preceding the election and close at 12:00 noon on the 46th day preceding the election.

(b) No person may qualify for election in accordance with section 8-44 prior to 12:00 noon of the 1st day of the qualifying period nor later than 12:00 noon of the last day of the qualifying period.

Sec. 8-38. Notice of commission election.

The city clerk shall prepare a notice stating which offices are to be filled at the next commission election, the dates of the qualifying period, and procedures for qualifying. During the thirty (30) days prior to the beginning of the qualifying period, the city clerk shall publish said notice two (2) times in the nonlegal section of a newspaper of general circulation in the city.

Sec. 8-39. Resign-to-run.

(a) No individual may qualify as a candidate for city office whose name appears, or will appear, on the same or another ballot for another public office, the term of which, or part thereof, runs concurrently with the term of the city office.

(b) Any individual qualifying for city office shall comply with the provisions of F.S. § 99.012 prior to qualifying, if applicable.

(c) No individual serving on an appointed city board or committee without salary shall be required to resign from that position in order to qualify as a candidate for city office. However, an individual is required to resign from an appointed city board or committee prior to assuming elected city office.

(d) A sitting commissioner deciding to run for mayor will be subject to the resign to run law, thereby creating a vacancy for that candidate's unexpired commission term. The candidate elected to fill the vacated seat shall serve for the remainder of the term.; sec. 3.05 of the city charter.

Sec. 8-40. Candidate's oath.

(a) Each individual, in order to qualify as a candidate for city office, shall take and subscribe to an oath or affirmation in writing which shall be substantially as follows:

State of Florida
County of Polk

Before me, an officer authorized to administer oaths, personally appeared (please print name as you wish it to appear on the ballot), to me well known, who, being sworn, says that he is a candidate for the office of City Commissioner of the City of Lake Wales; that he is a qualified elector of Polk County, Florida; that he is qualified under the Constitution and the laws of Florida to hold the office to which he desires to be nominated or elected; that he has taken the oath required by F.S. §§ 876.05—876.10; that he has not violated any of the laws of the state

relating to elections or the registration of electors; that he has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he seeks; and that he has resigned from any office from which he is required to resign pursuant to F.S. § 99.012.

_____ (Signature of candidate)

_____ (Address)

Sworn to and subscribed before me this ___ day of _____, _____,
at Polk County, Florida.

_____ (Signature and title of officer administering oath)

Sec. 8-41. Campaign financing and reporting.

Any candidate for elective city office is subject to and shall comply in all respects with the provisions of section 8-8 and Chapter 106, F.S.

Sec. 8-42. Election assessment.

(a) In accordance with F.S. § 99.093, each person seeking to qualify as a candidate for city office shall pay, at the time of qualifying for office, an election assessment in the amount of one percent (1%) of the current annual salary paid to commissioners or such other amount as may be required by F.S. § 99.093.

(b) Within thirty (30) days after the close of qualifying, the city clerk shall forward all assessments collected to the Department of State for deposit in the Elections Commission Trust Fund.

(c) Any person seeking to qualify for election to city office who is unable to pay the election assessment without imposing an undue burden on personal resources or on resources otherwise available to him shall, upon written certification of such inability given under oath to the city clerk, be exempt from paying the election assessment.

Sec. 8-43. Nomination by petition.

(a) Pursuant to section 8.03 of the city charter, candidates for election to the city commission shall be nominated by petition of qualified electors of their district or of any district in the city if for the at-large seat. Official nominating petitions will be provided by the city clerk.

(b) Any registered voter of the district or any district if seeking the at-large seat ~~may~~ shall be nominated for election by petition designating the commission seat to which he seeks election. ~~A petition which nominates a candidate for~~ election to a seat representing a district or area of the city, shall be signed by twenty-five (25) registered voters residing in that district shall sign a petition nominating the candidate to such seat. ~~If a~~ For election to the seat representing the city at large is allocated on the city commission, a petition which nominates a candidate for election to such seat shall be signed by twenty-five (25) registered voters residing in any district of the city shall sign a petition nominating the candidate to such seat.

(c) Each person signing a nominating petition must indicate the date of his signing and his place of residence.

(d) The signatures on a nominating petition need not all be affixed to one paper, but each separate

paper of a petition must bear the notarized affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in his presence and that he believes each signature to be the genuine signature of the person whose name it purports to be. All signatures must be executed in ink.

(e) Any candidate seeking to qualify for election must appoint a campaign treasurer and designate a campaign depository on or before the date he obtains petition signatures. Petition signatures obtained prior to this date shall be disqualified.

Sec. 8-44. Method for qualifying.

(a) Each person seeking to qualify as a candidate for city office shall file the following with the city clerk during the qualifying period:

- (1) The candidate's oath required by section 8-40.
- (2) The loyalty oath required by F.S. § 876.05.
- (3) The completed form for appointment of a campaign treasurer and designation of a campaign depository required by F.S. § 106.021.
- (4) The completed statement of financial interests required by F.S. § 112.3145.
- (5) A written statement certifying receipt of notice of the time and location of the pre-election test of voting equipment.

(b) Unless qualifying pursuant to the method set forth in subsection (c) ; or (d) ~~or~~ (e) of this section, each person seeking to qualify as a candidate for city office shall file with the city clerk the following:

- (1) A qualifying fee in the amount of twenty-five dollars (\$25.00) which shall be paid by check drawn on the candidate's campaign account. Said fee shall be deposited in the general fund of the city by the city clerk.
- (2) An election assessment as provided in section 8-42 to be paid by check drawn on the candidate's campaign account.
- (3) ~~An~~ At least twenty-five individually signed official nominating petition as provided in section 8-43 requesting that said candidate's name be placed upon the official ballot.
 - i. Within two (2) business days following receipt of the petition, the city clerk or deputy city clerk shall verify the signatures on the petition by comparing them to signatures in the voter registration records of the county. Signatures of persons not appearing in the voter registration records of the county as registered voters residing in the district as required shall be disqualified.
 - ii. Signatures obtained prior to the date on which the candidate's campaign treasurer and campaign depository were designated shall be disqualified.
 - iii. Petitions bearing at least twenty-five (25) verified and qualified signatures shall be certified as sufficient, and the candidate shall be considered as having qualified for election on the date the petition was filed.

- iv. Petitions bearing fewer than twenty-five (25) verified and qualified signatures shall be certified as insufficient, and the candidate shall not be qualified for election. The candidate shall be notified immediately of the failure to qualify and, if the qualifying period has not closed, he may obtain additional signatures of registered voters as required and file the amended petition prior to the close of the qualifying period.

(c) As an alternative method of qualifying for persons unable or unwilling to pay the qualification fee in accordance with § 99.095, F.S., a person seeking to qualify for nomination to city office shall not be required to pay the qualifying fee if said person files an official nominating petition duly signed by at least three percent (3 1%) of the electors qualified to vote in the ensuing election and residing in the district represented by the commission seat to which election is sought or in the city at-large, as applicable. A person seeking to qualify under this subsection shall file with the city clerk the following:

- (1) An oath stating that the person intends to qualify by this alternative method.
- (2) An official nominating petition as provided in section 8-43 requesting that said candidate's name be placed upon the official ballot.
 - (a) Within two (2) business days following receipt of the petition, the city clerk or deputy city clerk shall verify the signatures on the petition by comparing them to signatures in the voter registration records of the county. Signatures of persons not appearing in the voter registration records of the county as registered voters residing in the district shall be disqualified.
 - (b) Signatures obtained prior to the date when the candidate's campaign treasurer and campaign depository were designated shall be disqualified.
 - (c) Petitions bearing verified and qualified signatures of at least three percent (3 1%) of the total number of registered voters as required for the specific commission seat shall be certified as sufficient, and the candidate shall be considered as having qualified for election on the date the petition was filed.
 - (d) Petitions bearing verified and qualified signatures of fewer than three percent (3 1%) of the total number of registered voters as required for the specific commissions seat shall be certified as insufficient, and the candidate shall not be qualified for election. The candidate shall be notified immediately of the failure to qualify and, if the qualifying period has not closed, he may obtain additional signatures of registered voters as required and file the amended petition prior to the close of the qualifying period.

(d) As provided in F.S. § 99.061, a person may qualify as a write-in candidate by filing a statement to that effect, under oath, with the city clerk during the qualifying period. A person seeking to qualify as a write-in candidate shall also file a candidate's oath and a statement of financial interests but shall not be required to pay a qualifying fee or election assessment. A write-in candidate shall not be entitled to have his name printed on the ballot; however, space for the write-in candidate's name to be written in shall be provided on the ballot. Only write-in votes cast for a candidate who has qualified as a write-in candidate under the provisions of this subsection shall be counted and canvassed as a valid vote.

(e) As provided in section 3.05 of the city charter, ~~commission members holding seats not up for election shall be eligible as candidates for election to the office of mayor and shall have their names placed on the election ballot. A commission member may withdraw as a candidate by filing an affidavit indicating such intent with the city clerk during the qualifying period. A candidate for mayor~~

shall file the documents required by subsection (a) prior to the close of the qualifying period. any commissioner or other qualified elector of the city shall be entitled to run for mayor. Whether elected or not, a commissioner who runs for mayor shall lose his commission seat effective the day of election. A commissioner seeking to run for mayor, shall give notice of intent not less than forty-five days prior to the first day of the qualifying period to allow time for notice of election, candidate qualification, and placement of the election on the ballot for the seat to be vacated, thereby eliminating the need for a special election. The candidate elected to fill the vacated seat shall serve for the remainder of the term.

Sec. 8-45. Form of ballot.

(a) The form of the ballot in elections for city commissioner shall be substantially the same as the form of the ballot for the state general election prescribed in F.S. § 101.191.

(b) Candidates shall be grouped together on the ballot by commission seat, and, within each group of commission seats, candidates shall be listed in alphabetical order by the last name of each candidate.

(c) The name of a candidate shall be printed on the ballot in the same form as the name appears on the candidate's oath. Shortened versions or nicknames may be used if so indicated.

Sec. 8-46. Determination of results.

(a) In an election to fill the office of commissioner, the candidate receiving the highest number votes cast shall be declared elected.

(b) In an election to fill the office of mayor, the commissioner receiving the highest number of votes shall be declared elected.

Sec. 8-47. Unopposed candidate.

If, at the close of the qualifying period, only one candidate has qualified for election to city office by any method provided in section 8-44, the unopposed candidate shall be deemed to have voted for himself, shall be declared elected, and no election for that office will be required.

Sec. 8-48. No qualified candidate.

If, at the close of the qualifying period, no candidate has qualified for election to the city commission by any method provided in section 8-44, a vacancy on the commission shall occur at the first commission meeting in May. ~~The remaining commissioners shall appoint, by majority vote, a person otherwise qualified to be a commissioner, and the person so appointed shall serve as commissioner for the entire term.~~ A vacancy of the commission shall be filled by majority vote of the remaining commission members. The interim commissioner shall serve until the seat is filled in the normal course by the electorate and the next elected commission member takes office. ~~If the commission does not appoint a person to fill a vacancy within 30 days after the first regular commission meeting in May, a special election shall be held in order to fill the vacancy for the remainder of the term. The special election shall be called in accordance with section 8-67 and shall be held not less than 30 days nor more than 90 days after the initial 30-day period has expired.~~

Sec. 8-49. Withdrawal of candidate.

(a) A candidate may withdraw at any time prior to the election by filing with the city clerk a written and executed statement, under oath, to that effect. The candidate's name shall then not be printed on the ballot. If the ballot cannot be changed, then a vote cast for a candidate who has withdrawn shall not be canvassed or certified as a valid vote.

(b) If the death, removal or withdrawal of a candidate after the close of the qualifying period results in only one candidate remaining on the ballot for that office, the remaining candidate shall, in the absence of a qualified write-in candidate for that office, be declared elected, and no election for that office will be required.

(c) If the death, removal or withdrawal of a candidate after the close of the qualifying period results in no candidates for an office, a vacancy on the commission shall occur at the first commission meeting in May. ~~The remaining commissioners shall appoint, by majority vote, a person otherwise qualified to be a commissioner, and the person so appointed shall serve as commissioner for the entire term.; sec. 3.08 city charter. A vacancy of the commission shall be filled by majority vote of the remaining commission members. The interim commissioner shall serve until the seat is filled in the normal course by the electorate and the next elected commission member takes office. If the commission does not appoint a person to fill a vacancy within 30 days after the first regular commission meeting in May, a special election shall be held in order to fill the vacancy for the remainder of the term. The special election shall be called in accordance with section 8-67 and shall be held not less than 30 days nor more than 90 days after the initial 30-day period has expired.~~

(d) A candidate withdrawing or being removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.

Sec. 8-50. Filling of vacancy on the commission.

~~(a) A vacancy on the commission shall be filled for the remainder of the unexpired term, if any, at the next regular election following not less than sixty (60) days upon the occurrence of the vacancy, but the commission by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. If the commission fails to do so within thirty (30) days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy. Said special election to fill the vacancy shall be held not sooner than thirty (30) days and not later than ninety (90) days following the occurrence of the vacancy and to be otherwise governed by this chapter. A vacancy of the commission shall be filled by majority vote of the remaining commission members. The interim commissioner shall serve until the seat is filled in the normal course by the electorate and the next elected commission member takes office.; City Charter Section 3.08.~~

(b) In the event that all members of the commission are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim commission that shall call a special election ~~as provided in (a) which~~ and such election shall be governed by the provisions of Article VIII of the City Charter.

Sec. 8-51—8-65. Reserved.

ARTICLE IV. ISSUE ELECTIONS

DIVISION 1. GENERALLY.

Sec. 8-66. Applicable election laws.

Except as otherwise provided by state law, an issue election shall be conducted pursuant to the provisions of this chapter.

Sec. 8-67. Calling of election.

(a) Except as otherwise provided by state law or city charter, an issue election shall be called by the city commission upon approval of a resolution to that effect following certification from the city clerk that any and all applicable procedures and requirements relating to such an election have been satisfied. Whenever possible, the issue election shall be held in conjunction with a regularly scheduled city election.

(b) No issue election shall be held less than thirty (30) days after the election is called.

(c) No issue election shall be called until notice has been given to the supervisor of elections and the supervisor's consent has been obtained.

Sec. 8-68. Notice of issue election.

(a) Except as provided by applicable state statute and referenced herein, the city clerk shall cause notice of the issue election to be published in a newspaper of general circulation at least once during the fifth week and once in the third week preceding the week in which the election is held. The notice shall be styled "City of Lake Wales, Notice of Election," and shall state the date of the election and issue to be voted upon. The ballot language shall be included in the notice.

(b) Notice shall be published for an annexation referendum as provided in section 8-91.

Sec. 8-69. Ballot language.

(a) The city commission shall in the resolution calling the election pursuant to section 8-67 provide the language to appear on the ballot.

(b) Except for those issues for which state law prescribes the language to appear on the ballot, the ballot language shall consist of a title and the substance of the issue stated in the form of a question in clear and unambiguous language followed by the words "yes" and "no," and styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate a rejection.

(1) If state law prescribes the specific language to appear on the ballot, the ballot language shall be in substantially the form as provided in the applicable state law.

(2) If a special act of the legislature relating to the city requires the approval of the electors of the city to be effective, the ballot language shall be as set forth in the special act. However, should the act not prescribe the ballot language, the city attorney shall prepare the language consisting of a brief summation of the act not exceeding seventy-five (75) words in question form and providing for a "yes" vote indicating approval of the act and a "no" vote indicating disapproval or rejection of the act.

(c) Whenever possible, the ballot title shall consist of a caption not exceeding fifteen (15) words by which the measure is commonly referred.

(d) Whenever possible, the substance of the issue shall be an explanatory statement of the

primary purpose of the issue in the form of a question not exceeding seventy-five (75) words.

(e) If more than one issue is to appear on the same ballot, a consecutive designating number shall be assigned by the city clerk to each issue in the order of filing of the appropriate petition or other document required for placement on the ballot or in the order of approval by the city commission of the resolution calling the election. Referenda on special acts shall be separately designated.

(f) No later than thirty (30) days prior to the issue election, the city clerk shall transmit to the supervisor of elections a certified copy of any resolution calling an issue election together with the designating number, if applicable, the ballot title, and substance of the issue.

Sec. 8-70. Ballot position.

Any issue on a ballot also having candidates for elective office shall be placed in a position on the ballot so that it is separate and distinct from that portion of the ballot containing candidates' names, and shall be placed on the ballot either after or to the right of the candidates' position on the ballot.

Secs. 8-71—8-85. Reserved.

DIVISION 2. SPECIFICALLY.

Sec. 8-86. Charter amendment.

The city commission may by ordinance submit to the qualified electors of the city a proposed amendment to the city charter. The electors of the city may, by petition signed by ten percent (10%) of the registered electors as of the last preceding city election, submit to the qualified electors of the city a proposed amendment to the city charter. The city commission shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general regularly scheduled city election ~~held within the city~~ or at a special election called for such purpose.

Sec. 8-87. Initiative to adopt an ordinance.

(a) *Generally.* ~~As provided by section 3.10, city charter,~~ The qualified electors of the city shall have the power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital programs or any ordinances relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) *Commencement of proceedings by petitioners' committee.* Any five (5) qualified electors of the city may commence initiative proceedings by filing an affidavit with the city clerk stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses, specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance. The petitioners' committee shall be considered a political committee within the definition of F.S. §106.011(1) and shall comply with all registration, reporting, and campaign finance requirements of Chapter 106, F.S.

(c) *City Clerk to receive filings.* The city clerk shall receive all filings relating to initiative. For the purpose of this section, a filing shall be made as of the time of actual receipt by hand delivery or receipt by mail at the office of the city clerk.

(d) *Petitions.*

- (1) No petition blanks may be circulated for signature prior to the filing of the affidavit by the petitioners' committee or approval of the petition form by the city clerk.
- (2) Promptly after the affidavit of the petitioners' committee is filed, the city clerk may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense. Alternatively, the committee may submit a proposed petition to the city clerk for approval as to form.
- (3) All papers of a petition shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed.
- (4) Initiative petitions must be signed by qualified electors of the city equal in number to at least fifteen percent (15%) of the total number of qualified voters registered to vote at the last regular city election.
- (5) Each paper of a petition shall provide an affidavit stating that the circulator personally circulated the paper, that the signature was affixed in his presence, that he believes it to be the genuine signature of the person whose name it purports to be, and that the signer had an opportunity before signing to read the full text of the ordinance proposed.
- (6) Petition blanks shall consist of one sheet of paper, printed on only one side, entitled "City of Lake Wales, Initiative Petition" and shall be in substantially the following form:

City of Lake Wales
Initiative Petition

The petitioner's committee listed below is proposing an ordinance by initiative. A summary of the ordinance is as follows:

(summary of ordinance)

This proposed ordinance, if signed by 15% of the city's electors as of the last city election, will be presented to the city commission. If it is not adopted by the commission, it will then be submitted to the voters. If you approve of the ordinance and/or wish it to be submitted to the commission and the voters, please sign below, but only if you are a registered voter of the City of Lake Wales.

Petitioner's Committee

Name _____

Name _____

Name _____

Name _____

Elector's signature as it appears on registration rolls

Home address

City zip

Name _____ Precinct # _____ date _____
(if known)

Circulator's Affidavit

I, the undersigned, personally circulated this paper, the one signature affixed was done in my presence, the signer had an opportunity to read the full text of the proposed ordinance, and I believe it to be a genuine signature.

Circulator

Subscribed and sworn before me this _____ day of _____, 20____

Notary

(e) *Prohibited practices*

- (1) Any person knowingly signing a petition more than one time shall be in violation of F.S. § 104.185.
- (2) Any circulator falsely executing the affidavit on any petition blank shall be in violation of F.S. § 104.011.
- (3) Any person who by bribery, menace, threat or other corruption whatsoever, directly or indirectly, attempts to, or does in fact, influence, deceive, or deter any elector, or in any way interferes with any elector, in the free exercise of his right to sign or not to sign a petition, shall be guilty of a violation of this subsection with penalties as provided in section 1-15 of this code.
- (4) Any person who shall directly or indirectly give or promise anything of value to another intending thereby to buy that individual's or another's signature on a petition, or to corruptly influence another in signing or not signing a petition, shall be guilty of a violation of this subsection with penalties as provided in section 1-15 of this code.

(f) *Removal of names.* Any person may request the removal of his name from a previously executed petition prior to the filing of the petition with the city clerk. The responsibility for removal of any name pursuant to a request shall be that of the petitioner's committee and failure to promptly do so when requested shall be a violation of this subsection with penalties as provided in section 1-15 of this code.

(g) *Procedure for filing petition.*

- (1) Each paper of a petition shall bear an executed and notarized circulator's affidavit when the petition is filed by the petitioners' committee with the city clerk.
- (2) Upon the filing of an initiative petition, the city clerk shall determine if it is sufficient as to form, content and circulator affidavits. If not, the city clerk shall promptly issue an insufficiency certificate and mail it to the petitioner's committee by registered mail. A petition deemed insufficient for any reason other than lack of the required number of signatures may not be amended or resubmitted.

- (3) A petition deemed by the city clerk to be sufficient as to form, content and circulator affidavits shall be promptly delivered to the supervisor of elections for verification of signatures pursuant to F.S. § 99.097; however, the random sample procedure shall not be used for signature verification. The petitioners' committee shall pay the supervisor the fee for verification as required by F.S. § 99.097(4). The supervisor shall complete the verification no later than the 20th day following the date of the filing of the petition with the city clerk, stating the number of signatures checked, the number verified to be registered electors of the city, and the number of signatures determined not to be registered electors of the city.
- (4) Upon receipt of the certificate from the supervisor of elections, the city clerk shall compare the number of verified signatures to the number equal to fifteen percent (15%) of the registered electors of the city as of the last regular city election. If the number of verified signatures exceeds the requisite number, the city clerk shall issue a certificate of sufficiency, transmit a copy by registered mail to the petitioners' committee, and deliver a copy of the certificate and the proposed ordinance to the members of the city commission. If the number of verified signatures fails to meet the requisite number, the city clerk shall issue a certificate as to the insufficiency of the petition and transmit a copy by registered mail to the petitioners' committee.
- (5) A petition certified insufficient for lack of the requisite number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the city clerk within two (2) business days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (d), and, within five (5) days after it is filed, the city clerk shall complete a certificate as to the sufficiency or insufficiency of the amended petition and promptly send a copy of such certificate to the petitioners' committee by registered mail.
- (6) If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request commission review under paragraph (7) of this subsection within the time required, the city clerk shall promptly present a copy of the certificate and the proposed ordinance to the city commission. The certificate shall then be a final determination as to the sufficiency of the petition.
- (7) If a petition has been certified insufficient, and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) business days after receiving the copy of such certificate, file a request that it be reviewed by the commission. The commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The commission's determination shall then be a final determination as to the sufficiency of the petition.

(h) *Action by commission.* When an initiative petition has finally been determined sufficient, the commission shall promptly consider the proposed initiative ordinance. If the commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days, it shall no later than the 60th day following issuance of the certificate of sufficiency, adopt a resolution calling an issue election to consider the proposed ordinance, and prescribing the ballot language in the manner prescribed in section 8-69.

- (i) *Submission to voters.* The vote of the city electors on a proposed ordinance shall be held not

less than thirty (30) days and not later than sixty (60) days after approval of the resolution calling an issue election. Whenever possible, the election shall be held in conjunction with a regularly scheduled state or city election. Copies of the proposed ordinance shall be made available at the polls for public review.

(j) *Withdrawal of petition.* An initiative petition may be withdrawn at any time prior to the 15th day preceding the election by filing with the city clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated. If an election has been called prior to the petition withdrawal, the city clerk shall, upon receipt of the request from the petitioners' committee, transmit a notice thereof to the city commission and the supervisor of elections, and the city commission shall by resolution cancel the election.

(k) *Results of election.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of same kind adopted by the commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Sec. 8-88. Referendum to repeal an ordinance.

(a) *Generally.* ~~As provided by section 3.10, city charter,~~ The qualified electors of the city shall have the power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve it or reject it at a city election, provided that such power shall not extend to the budget or capital programs or any emergency ordinance or ordinances relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) *Commencement of proceedings by petitioners' committee.* Any five (5) qualified electors of the city may commence referendum proceedings by filing an affidavit with the city clerk stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses, specifying the address to which all notices to the committee are to be sent, and setting out in full the ordinance sought to be reconsidered. The petitioners' committee shall be considered a political committee within the definition of F.S. §106.011(1) and shall comply with all registration, reporting, and campaign finance requirements of Chapter 106, F.S.

(c) *City clerk to receive filings.* The city clerk shall receive all filings relating to referendum. For the purpose of this section, a filing shall be made as of the time of actual receipt by hand delivery or receipt by mail at the office of the city clerk.

(d) *Petitions.*

- (1) No petition blanks may be circulated for signature prior to the filing of the affidavit by the petitioners' committee or approval of the petition form by the city clerk.
- (2) Promptly after the affidavit of the petitioners' committee is filed, the city clerk may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense. Alternatively, the committee may submit a proposed petition to the city clerk for approval as to form.

Notary

(e) *Prohibited practices*

- (1) Any person knowingly signing a petition more than one time shall be in violation of F.S. §104.185.
- (2) Any circulator falsely executing the affidavit on any petition blank shall be in violation of F.S. §104.011.
- (3) Any person who by bribery, menace, threat or other corruption whatsoever, directly or indirectly, attempts to, or does in fact, influence, deceive, or deter any elector, or in any way interferes with any elector, in the free exercise of his right to sign or not to sign a petition, shall be guilty of a violation of this subsection and punishable as provided in section 1-15 of this code.
- (4) Any person who shall directly or indirectly give or promise anything of value to another intending thereby to buy that individual's or another's signature on a petition, or to corruptly influence another in signing or not signing a petition, shall be guilty of a violation of this subsection and punishable as provided in section 1-15 of this code.
- (f) *Removal of names.* Any person may request the removal of his name from a previously executed petition prior to the filing of the petition with the city clerk. The responsibility for removal of any name pursuant to a request shall be that of the petitioner's committee and failure to promptly do so when requested shall be a violation of this subsection and punishable as provided in section 1-15 of this code.

(g) *Procedure for filing petition.*

- (1) Referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.
- (2) Each paper of a petition shall bear an executed and notarized circulator's affidavit when the petition is filed by the petitioners' committee with the city clerk.
- (3) Upon the filing of a referendum petition, the city clerk shall determine if it is sufficient as to timeliness, form, content and circulator affidavits. If not, the city clerk shall promptly issue an insufficiency certificate and mail it to the petitioner's committee by registered mail. A petition deemed insufficient for any reason other than lack of the required number of signatures may not be amended or resubmitted.
- (4) A petition deemed by the city clerk to be sufficient as to timeliness, form, content and circulator affidavits shall be promptly delivered to the supervisor of elections for verification of signatures pursuant to F.S. § 99.097; however, the random sample procedure shall not be used for signature verification. The petitioners' committee shall pay the supervisor the fee for verification as required by F.S. § 99.097(4). The supervisor shall complete the verification no later than the 20th day following the date of the filing of the petition with the city clerk, stating the number of signatures checked, the number verified to be registered electors of the city, and the number of signatures determined not to be registered electors of the city.

- (5) Upon receipt of the certificate from the supervisor of elections, the city clerk shall compare the number of verified signatures to the number equal to fifteen percent (15%) of the registered electors of the city as of the last regular city election. If the number of verified signatures exceeds the requisite number, the city clerk shall issue a certificate of sufficiency, transmit a copy by registered mail to the petitioners' committee, and deliver a copy of the certificate and the ordinance sought to be repealed to the members of the city commission. If the number of verified signatures fails to meet the requisite number, the city clerk shall issue a certificate as to the insufficiency of the petition and transmit a copy by registered mail to the petitioners' committee.
- (6) A petition certified insufficient for lack of the requisite number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the city clerk within two (2) business days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (d), and, within five (5) days after it is filed, the city clerk shall complete a certificate as to the sufficiency or insufficiency of the amended petition and promptly send a copy of such certificate to the petitioners' committee by registered mail.
- (7) If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request commission review under paragraph (8) of this subsection within the time required, the city clerk shall promptly present a copy of the certificate and the ordinance sought to be repealed to the city commission. The certificate shall then be a final determination as to the sufficiency of the petition.
- (8) If a petition has been certified insufficient, and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) business days after receiving the copy of such certificate, file a request that it be reviewed by the commission. The commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The commission's determination shall then be a final determination as to the sufficiency of the petition.

(h) *Suspension of effect of ordinance.* When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition; or
- (2) The petitioners' committee withdraws the petition; or
- (3) The commission repeals the ordinance; or
- (4) The vote of city electors determines that the ordinance should be repealed or that the ordinance should take effect.

(i) *Action by commission.* When a referendum petition has finally been determined sufficient, the commission shall promptly reconsider the referred ordinance by voting its repeal. If the commission fails to repeal the referred ordinance within thirty (30) days, it shall no later than the 30th day following issuance of the certificate of sufficiency, adopt a resolution calling an issue election to

consider the repeal of the referred ordinance, and prescribing the ballot language in the manner prescribed in section 8-69.

(j) *Submission to voters.* The vote of the city electors on a referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days after approval of the resolution calling an issue election. Whenever possible, the election shall be held in conjunction with a regularly scheduled state or city election. Copies of the referred ordinance shall be made available at the polls for public review.

(k) *Withdrawal of petition.* A referendum petition may be withdrawn at any time prior to the 15th day preceding the election by filing with the city clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated. If an election has been called prior to the petition withdrawal, the city clerk shall, upon receipt of the request from the petitioners' committee, transmit a notice thereof to the city commission and the supervisor of elections, and the city commission shall by resolution cancel the election.

(l) *Results of election.* If a majority of the qualified electors voting in the election approve the repeal of the referred ordinance, it shall be considered repealed upon certification of the election results. If a majority of the qualified electors voting in the election does not approve the repeal of the referred ordinance, it shall take full effect upon certification of the election results.

Sec. 8-89. Recall.

(a) The recall of a city commissioner shall be conducted pursuant to F.S. § 100.361.

(b) The ballot language for a recall election shall be that prescribed in F.S. § 100.361(3).

(c) The committee circulating petitions for recall shall be considered a political committee under Chapter 106, F.S., and shall register as such pursuant to F.S. § 106.03 prior to receiving any contributions or making any expenditures seeking the recall election of any commissioner.

Sec. 8-90. Bond authorization.

(a) An election as required by Article VII, Section 12 of the State Constitution to approve the issuance of general obligation bonds which are secured by the full faith and credit of the city or payable from the proceeds of ad valorem taxes shall be called and conducted pursuant to division 1 of this article.

(b) Any registered elector residing within the city shall be qualified and eligible to vote in a bond referendum, provided such elector has registered no less than thirty (30) days prior to the date of the election.

Sec. 8-91. Annexation referendum.

(a) A referendum as required by F.S. § 171.0413 to approve the involuntary annexation of land adjacent to the corporate limits shall be called and conducted pursuant to this section.

(b) The city commission shall call an annexation referendum by the adoption of an ordinance describing the land to be annexed and setting the date for the election. A certified copy of the ordinance shall be delivered to supervisor of elections by the city clerk.

(c) The referendum on annexation shall be held at the next regularly scheduled city election following the final adoption of the ordinance proposing the annexation or at a special election called for the purpose of holding the referendum. However, the referendum shall not be held sooner than thirty (30) days following the final adoption of the ordinance by the city commission.

(d) As required by F.S. §171.0413, the city clerk shall publish notice of the annexation referendum at least once each week for two (2) consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the area in which the referendum is to be held.

- (1) The notice shall give the ordinance number, the time and places for the referendum, and a brief, general description of the area proposed to be annexed.
- (2) The description shall include a map clearly showing the area and a statement that the complete legal description by metes and bounds or subdivided lot and block and that the ordinance can be obtained from the office of the city clerk.

(e) On the day of the referendum, there shall be prominently displayed at each polling place a copy of the ordinance of annexation and a description of the property proposed to be annexed. The description shall be by metes and bounds or subdivided lot and block and shall include a map clearly showing the area to be annexed.

(f) Ballots used in the annexation referendum shall offer the choice "For annexation of property described in ordinance number ___ of the City of Lake Wales" and "Against annexation of property described in ordinance number ___ of the City of Lake Wales" in that order.

(g) If the referendum is held only in the area proposed to be annexed and receives a majority vote, or if the ordinance is submitted to a separate vote of the registered electors of the city and the area proposed to be annexed and there is a separate majority vote for annexation in the city and in the area to be annexed, the ordinance of annexation shall become effective on the effective date specified therein. If there is any majority vote against annexation, the ordinance shall not become effective, and the area proposed to be annexed shall not be the subject of an annexation ordinance by the city for a period of two (2) years from the date of the annexation referendum.

Sec. 8-92. Straw ballot.

(a) The city commission may at a time, by resolution, call a special election for the purpose of having the electors of the city vote on an issue in a non-binding referendum. The resolution shall call the election, set the date therefore, and prescribe the ballot language. The city clerk shall cause a notice of election to be published in accordance with section 8-68.

(b) The election may be held in conjunction with a regularly scheduled city election or at such other time as provided by the city commission.

(c) The campaign finance provisions of Chapter 106, F.S., shall apply to elections called pursuant to this section.

Sec. 8-93. Other issues.


An election on any issue not otherwise provided for in this part shall be conducted in such manner as provided in the ordinance or resolution calling the election.

Secs. 8-94—8-105. Reserved.

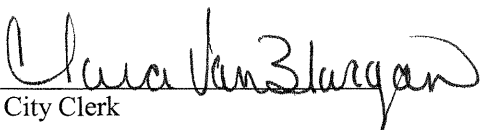
SECTION 2. If any clause, section or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 3. This ordinance shall become effective immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE this 5th day of February, 2013.

BY: 
Mayor/Commissioner
City of Lake Wales, Polk County, Florida

ATTEST:


City Clerk