

Ordinance No. 2016-4361

An Ordinance of the City of Sanford, Florida relating to the dates of City elections; providing for an amendment to Section 6.1 of the *City of Sanford City Charter* with regard to establishing dates to provide that all such elections shall occur and be implemented in accordance with the provisions of controlling State law with regard to the State Primary Election and State General Election dates; providing for legislative and administrative findings; providing for verification of signatures/petitions; providing for implementing administrative actions and responsibility for implementation; providing for a savings provision; providing for codification as well as the correction of scrivener's errors; providing for conflicts; providing for severability and providing for an effective date.

Whereas, the provisions of Florida law and the provisions of the *City of Sanford City Charter* regulate the electoral processes of the City of Sanford relative to City elections; and

Whereas, Section 100.3605, *Florida Statutes*, relates to the conduct of municipal elections and provides as follows:

- (1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.
- (2) **The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality** and provide for the orderly transition of office resulting from such date changes. (**Emphasis** added).

and;

Whereas, Section 101.75, *Florida Statutes*, relates to, among other things, municipal elections; change of dates, and provides as follows:

- (1) In any municipality, when the date of the municipal election falls on

the same date as any statewide or county election and the voting devices of the voting system used in the county are not available for both elections, the municipality may provide that the municipal election may be held within 30 days prior to or subsequent to the statewide or county election.

(2) The date of the municipal election shall be set by the municipality by ordinance.

(3) **Notwithstanding any provision of local law or municipal charter, the governing body of a municipality may, by ordinance, move the date of any municipal election to a date concurrent with any statewide or countywide election. The dates for qualifying for the election moved by the passage of such ordinance shall be specifically provided for in the ordinance.¹ The term of office for any elected municipal official shall commence as provided by the relevant municipal charter or ordinance. (Emphasis added).**

; and

Whereas, a review of the upcoming City election schedule, the prudent expenditure of public funds, and the needs of the City as well as the general requirements pertaining to the administration and implementation of elections have resulted in the conclusion that it would be beneficial and in the public interest to amend the provisions of the *City of Sanford City Charter* and to enact this Ordinance relative to changing the dates for the election of members of the governing body of the City (the City Commission); and

Whereas, the provisions of Section 166.021 (4), *Florida Statutes*, provide as

¹ Section 6.02 (b) of the *City of Sanford City Charter* provides as follows:

The period within which a candidate may qualify as above stated shall begin ninety-two (92) days prior to the election and shall terminate at 12:00 noon on the last regular working day for the City Clerk's office eighty-eight (88) days in advance of the election date. Qualification can be effected only during normal working hours for the City Clerk's office.

It is noted that the administration of elections is a highly complex matter and the Supervisor of Elections of Seminole County must comply with the complexities that arise with regard to compliance with the *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)* and other controlling law relating to the elections process. Those covered by *UOCAVA* include active-duty members of the Uniformed Services, dependent family members of active-duty

follows:

The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited. However, nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect the exercise of extraterritorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031. Any other limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is hereby nullified and repealed." (**Emphasis** added).

; and

Whereas, the many of the aforesaid provisions of statutory law were enacted into law in 1995 by the Florida Legislature by means of the passage of House Bill 2209 (Chapter 95-178, *Laws of Florida*); and

Whereas, House Bill 2209 (Chapter 95-178, *Laws of Florida*) was passed by the Florida House of Representatives by a vote of 118-0 and by the Florida Senate by virtue of a vote of 37-0 and, a review of the legislative history of the legislation, indicates

members of the Uniformed Services and United States citizens residing outside of the territorial boundaries of the United States.

that all committee votes on the legislative were unanimously in favor of the legislation;
and

Whereas, a review of the legislative staff reports for House Bill 2209 (Chapter 95-178, *Laws of Florida*) and its companion bill (Senate Bill 1720) results in the conclusion that numerous public policy arguments were advanced in favor of the legislation and that the bill was advanced in order to enhance the electoral processes of Florida municipalities; and

Whereas, the Florida Attorney General has opined that the legislative changes to Section 100.3605(2), *Florida Statutes*, as enacted in 1995 by the passage of House Bill 2209 (Chapter 95-178, *Laws of Florida*), allow municipalities to amend their charters to change the election dates and qualifying periods for candidates including any changes in terms of offices necessitated by such amendment such as an extension of terms of office without a referendum election, see Attorney General Opinion 2000-61, dated October 6, 2000, issued to Mr. Frank Comparetto, Jr., City Attorney for the City of Mulberry; Attorney General Opinion 2003-52, dated November 3, 2003, issued to Mr. James C. Brady, on behalf of the Mayor and City Council of the City of Fort Lauderdale; and Attorney General Opinion 2007-34, dated July 24, 2007, issued to Mr. Robert D. Pritt, City Attorney for the City of Naples which legal authority was also noted in Attorney General Opinion 2008-38, dated July 23, 2008, issued to Ms. Maura J. Kiefer, City Attorney for the City of Indian Rocks Beach; Attorney General Opinion 2013-05, dated April 1, 2013, issued to Mr. Thomas J. Wohl, City Attorney for the City of Arcadia;
and

Whereas, Section 6.02 (c) of the *City Charter of the City of Sanford* provides as follows relating to the qualifying for office of candidates for City office:

Any person who is a qualified elector in the City of Sanford, and otherwise qualified, may alternatively become a candidate for the office of Mayor or City Commissioner upon filing with the City Clerk a written notice of his or her intention to become a candidate in accordance with Article II and this Section, requesting that his or her name be printed upon the ballot and presenting a written petition with the names of two hundred and fifty (250) signers who are eligible electors residing in the Commission district seat the candidate seeks. Candidates for Mayor qualifying by petition shall present a written petition with the names of five hundred (500) signers who are eligible voters residing within the City. The form of the petition shall comply with Florida law. Petitions for placing a candidate's name on the ballot may be submitted to the City Clerk for verification in whole or in part. Candidates qualifying by petition may begin collecting and turning in names on petitions one hundred and twenty (120) days in advance of the opening of the qualifying period. All petitions for placing a candidate's name on the ballot must be received by the City Clerk's office prior to the end of the qualifying period. The City Clerk shall present the names on written qualification petitions to the supervisor of elections office for certification as a valid elector and shall provide timely notification of the number of certified electors to the candidate until the requisite number of electors has been met or the qualification period has ended with the candidate being unable to meet the required numbers of certified electors during their qualification petition attempt.

; and

Whereas, the City Clerk serves as the administrator of City elections within the City of Sanford; and

Whereas, there are other circumstances, aside from that set forth above in Section 6.02 (c) of the *City Charter of the City of Sanford*, when the City Clerk is called upon to verify signatures of registered voters; and

Whereas, the Supervisor of Elections for Seminole County, operating under the legal authority of Chapter 98, *Florida Statutes*, and implementing the Florida Election

Code² and associated laws is most qualified and best able to verify the signatures of registered voters when such action is required by controlling law; and

Whereas, the City and the Supervisor of Elections for Seminole County have cooperated and collaborated in the past with regard to the activities needed to verify the signatures of registered voters; and

Whereas, Section 34-1 of the *City Code of the City of Sanford* relates to the administration of City elections and delegated significant authority to the City Clerk relative to the administration of City elections; and

Whereas, the City Commission of the City of Sanford desires that the elections of the City of Sanford be conducted in an atmosphere that provides the upmost stability in terms of when elections will occur and related matters; and

Whereas, Article VIII Section 2(b) of the *Constitution of the State of Florida* states that municipalities shall have the governmental powers to enable them to conduct municipal government, perform municipal functions, render municipal services and exercise any power for municipal purposes except when expressly prohibited by law; and

Whereas, this Ordinance is enacted pursuant to the home rule powers of the City of Sanford as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*, Chapter 166, *Florida Statutes*, the *City Charter of the City of Sanford* and the *City Code of the City of Sanford*; Chapter 100, *Florida Statutes*, Chapter 101, *Florida*

² Section 97.011, *Florida Statutes*, provides that “Chapters 97-106 inclusive shall be known and may be cited as ‘The Florida Election Code.’”

Statutes (both of which are part of the *Florida Election Code*³), and other applicable controlling law.

Now, Therefore, Be It Enacted By The People Of The City Of Sanford, Florida:

Section 1. Legislative And Administrative Findings And Intent.

(a). The City Commission of the City of Sanford hereby adopts and incorporates into this Ordinance the recitals (whereas clauses) set forth herein as the legislative and administrative findings and intent of the City Commission.

(b). The City Commission of the City of Sanford desires to have its election processes be administered in an effective and cost effective manner which maximizes citizen involvement and which minimizes delays and harm to the public.

(c). The City of Sanford has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

Section 2. City Elections; Amendment To *City Of Sanford City Charter*.

Section 6.01 of the *City of Sanford City Charter* is substantially revised and amended to read as follows to address matters pertaining to the timing of City elections:

Section 6.01. - Election of Mayor and Commissioners; dates of regular and runoff elections.

(a). The regular municipal election of the City shall be held simultaneously with the State primary elections of each election year⁴ and runoff elections, if

³ See Footnote 1.

⁴ Section 100.061, *Florida Statutes*, relates to primary elections and provides as follows:

In each year in which a general election is held, a primary election for nomination of candidates of political parties shall be held on the Tuesday 10 weeks prior to the general election. The candidate receiving the highest number of votes cast in each contest in the primary election shall be declared nominated for such office. If two or more candidates receive an equal and highest number of votes for the same office, such candidates shall draw lots to determine which candidate is nominated.

necessary, shall be held simultaneously with the State general elections of each election year⁵ after qualification is completed and after consultation with the Seminole County Supervisor of Elections.

(b). City Commission seats are hereby designated as Mayor and the seats for City Commission districts 1, 2, 3, and 4. Candidates for the offices of Mayor and City Commissioner shall file to qualify for the office of Mayor or City Commission district as provided by law.

(c). Each candidate for office shall announce whether he or she is a candidate for the office of Mayor or for a City Commission district. Where more than one (1) Commissioner is to be elected, the candidates for Commissioner shall be grouped by district number and each candidate shall announce the district for which he or she is a candidate.

(d). The candidate for Mayor receiving a majority of the votes cast for Mayor shall be elected. The candidate in each district for Commissioner receiving a majority of the votes cast in that district shall be elected. In the event that no candidate for Mayor receives a majority of the votes cast for Mayor at the regular municipal election of the City held simultaneously with the State primary elections, a runoff election shall be held as provided in subsection (a), at which runoff election only the two (2) candidates for Mayor receiving the highest vote in the regular municipal election shall be candidates,

⁵ Section 100.031, *Florida Statutes*, relates to general elections and provides as follows:

A general election shall be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal, state, county, and district officer whose term will expire before the next general election and, except as provided in the State Constitution, to fill each vacancy in elective office for the unexpired portion of the term.

and the candidate for Mayor receiving a majority of the votes cast for Mayor shall be elected. In the event that no candidate for Commissioner in a district receives a majority of the votes cast in that district at the regular municipal election held simultaneously with the State primary elections, a runoff election shall be held as provided in subsection (a), at which runoff election only the two (2) candidates for Commissioner receiving the highest vote in the regular municipal election for that district shall be candidates, and the candidate for Commissioner receiving a majority of the votes cast for Commissioner in a district shall be elected.

(e). Write-in votes shall be allowed and counted in accordance with controlling State law. The names of unopposed candidates shall not appear on the ballot when not in accordance with controlling State law.

(f). Any matter which, by the terms of this Charter may be submitted to the electors of the City at any special election may be submitted and voted upon at any City election held in accordance with this Section.

Section 3. City Elections; Verification of Signatures/Petitions.

A new Section 6.01 of the *City Code of the City of Sanford* is added to read as follows:

Verification of Signatures/Petitions.

This provision is enacted in implementation of Section 6.02 (c) of the *City Charter* which relates to when a person who is a qualified elector in the City of Sanford, and otherwise qualified to be a candidate, determines to proceed under the alternative method of becoming a candidate for the office of Mayor or City Commissioner by filing qualification papers and presenting a written petition with the names of 250 signers who are eligible

electors residing in the Commission district seat the candidate seeks, or a written petition with the names of 500 signers who are eligible voters residing within the City if the person qualifying by petition for the office of Mayor. The form of the petition shall comply with Florida law. Petitions for placing a candidate's name on the ballot may be submitted to the City Clerk, or the Supervisor of Elections for Seminole County if the City Clerk so directs, for verification in whole or in part. Candidates qualifying by petition may begin collecting and turning in names on petitions 120 days in advance of the opening of the qualifying period. All petitions for placing a candidate's name on the ballot must be received by the City Clerk's office, or the Supervisor of Elections for Seminole County if the City Clerk so directs prior to the end of the qualifying period. If the City Clerk directs potential candidates to directly file petitions with the Supervisor of Elections for Seminole County, that direction shall constitute the City Clerk presenting the names on written qualification petitions to the office of the Supervisor of Elections for Seminole County office for certification as a valid elector. The City Clerk shall coordinate this activity with the office the Supervisor of Elections for Seminole County and shall provide timely notification of the number of certified electors to the candidate until the requisite number of electors has been met or the qualification period has ended with the candidate being unable to meet the required numbers of certified electors during their qualification petition attempt, or ensure the provision of such actions and activities by the Supervisor of Elections for Seminole County.

Section 4. Implementing Administrative Actions.

The City Clerk and City Attorney are hereby authorized and directed to

implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance as such officials may deem appropriate in their respective roles and functions under the *City of Sanford City Charter*.

Section 5. Savings; Effect Of Ordinance.

The prior actions of the City of Sanford in terms of the matters relating to the conduct of elections in, and actions of the electorate of, the City of Sanford in the process of electing public officials, as well as any and all related matters and processes and procedures of the City pertaining thereto, are hereby ratified and affirmed.

Section 6. Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 7. Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise to be invalid, unlawful, or unconstitutional.

Section 8. Codification; Scrivener's Errors.

(a). This Ordinance shall be codified, as determined to be appropriate by the Code codifier.

(b). The sections, divisions, etc., and provisions of this Ordinance may be

renumbered or relettered as deemed appropriate by the Code codifier.

(c). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

Section 9. Effective Date.

This Ordinance shall take effect immediately upon passage and adoption.

Passed and adopted this 11th day of January, 2016.

**City Commission of the City of
Sanford, Florida, Seminole County,
Florida.**



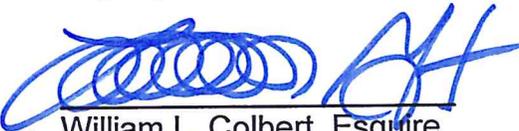
Jeff Triplett, Mayor

Attest:

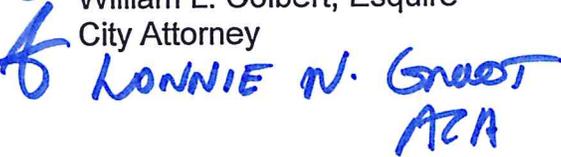


Cynthia Porter, City Clerk

Approved as to form and
Legality:



William L. Colbert, Esquire
City Attorney


LONNIE N. GROAT
AZA