



Meeting Date: _____
From (Dept): _____
Signature: _____
Department Director
Approved for
Agenda: _____
City Manager

Official Use Only
Reviewed by
City Attorney: _____
Council Action: _____
Date: _____

SUBJECT:
Request For Approval:

SUMMARY EXPLANATION & BACKGROUND:

FISCAL INFORMATION:

RECOMMENDED ACTION:

Initiated by:

From: [Virginia Cassidy](#)
To: [Dawn Bowne](#)
Cc: [Eddie Esch](#)
Subject: Ordinance - Charter Change
Date: Wednesday, January 06, 2016 4:36:44 PM
Attachments: [image001.png](#)
[Ordinance Charter Changes 2016.docx](#)
[Ordinance Exhibit A Charter Changes 2016.docx](#)

Dawn, here is the proposed ordinance you asked me to prepare.

It may seem cumbersome to attach the entire Charter to the Ordinance since only one small paragraph is being changed. However, 166.031 requires that you send the revised charter to the Dept. of State if it passes, and that is the reason the entire charter is attached.

Let me know if you have questions.



DISCLAIMER:

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ORDINANCE #ORD2016-04

AN ORDINANCE OF THE CITY OF DUNNELLON, FLORIDA, SUBMITTING TO THE ELECTORS OF DUNNELLON A PROPOSED AMENDMENT TO SECTION 39 OF THE CITY CHARTER CHANGING THE DAY AND MONTH OF A RUN-OFF ELECTION IN THE EVENT OF A TIE VOTE TO BE CONSISTENT WITH FEDERAL LAW; PROVIDING THE BALLOT TITLE, SUMMARY, AND TEXT FOR THE PROPOSED AMENDMENT; PROVIDING DIRECTIONS TO THE CITY CLERK; PROVIDING FOR THE EFFECTIVE DATE OF THE CHARTER AMENDMENT IF APPROVED BY A MAJORITY OF ELECTORS; PROVIDING FOR SEVERABILITY, CONFLICTS, AND EFFECTIVE DATE FOR THIS ORDINANCE.

WHEREAS, the Marion County Supervisor of Elections has notified the City that Section 39 of the City's Charter requiring that a run-off election in the event of a tie vote be held the first Tuesday after the first Monday in December is inconsistent with federal law, which requires that ballots to overseas military personnel and civilians be mailed at least 45 days prior to an election; and

WHEREAS, to comply with federal law, the Charter must be presented to the electors of the City with an amendment which changes the day and month of a run-off election when a general or special election results in a tie vote; and

WHEREAS, at the Supervisor of Elections requires a run-off election be held at least seventy (70) days after the date of the special or general election which results in a tie vote to be compliant with federal law requirements for mailing overseas ballots; and

WHEREAS, Section 166.031, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality proposed amendments to its charter, which amendments may be to any part or to all of its charter except that part describing the boundaries of such municipality.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF DUNNELLON, FLORIDA, THAT:

SECTION 1. The recitals set forth above are hereby adopted as legislative findings of the City Council of the City of Dunnellon.

SECTION 2. Proposed Amendment to Charter. The City Council of the City of Dunnellon, pursuant to Section 166.031, Florida Statutes, hereby proposes an amendment to the Charter of the City of Dunnellon, which amendment to Section 39 of the Charter is set forth in Exhibit "A" attached hereto and by this reference made a part hereof. Section 39 of the Charter attached hereto reflects the proposed change by showing additions with underlining and deletions with ~~strike-through~~ type.

SECTION 3. Submission to Electors. The proposed amendment to the Charter of the City of Dunnellon, as contained in this Ordinance, shall be submitted to a vote of the electors of the City of Dunnellon at the next municipal election to be held on Tuesday, November 8, 2016. The Supervisor of Elections of Marion County is hereby requested to coordinate all matters of said referendum election with the City Clerk.

SECTION 4. Duties of City Clerk. The City Clerk is hereby directed to ensure that all advertising and notice requirements are complied with pursuant to the City’s Charter and to coordinate all activities necessary to conduct the referendum election called in Section 3 of this Ordinance with the Supervisor of Elections for Marion County. Should the proposed change to the Charter be approved by the electors, the City Clerk shall ensure that the Department of State is sent the revised Charter.

SECTION 5. Ballot Title and Text. The ballot title and summary of the proposed amendment to the Charter shall appear on the ballot in the form of a question, set forth as follows:

CHARTER BALLOT QUESTION
CITY OF DUNNELON, FLORIDA
REFERENDUM ELECTION

Change in day and month of a run-off election when there is a tie vote

Shall the Charter of Dunnellon be amended to change the day and month of a run-off election from the first Tuesday after the first Monday in December to the third Tuesday in January when a general or special election results in a tie vote, to comply with federal law?

_____ Yes for Approval

_____ No for Rejection

SECTION 6. Effective Date of Amendment to Charter. If approved by a majority of the voting electors of the City of Dunnellon, the amendment set forth in Exhibit “A” shall become effective in accordance with the provisions of Section 166.031, Florida Statutes. If the electors reject an amendment(s), the rejected amendment(s) shall not take effect.

SECTION 7. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

SECTION 8. Conflicting Ordinances. All ordinances and Charter provisions, or parts of ordinances and Charter provisions in conflict herewith are hereby repealed.

SECTION 9. Effective Dates. This Ordinance shall take effect immediately upon its final passage and adoption. The revised Charter provisions proposed for approval in this Ordinance shall become effective upon the approval of a referendum election of the electors of the City of Dunnellon.

Upon motion duly made and carried, the foregoing Ordinance was approved upon the first reading on the 14th day of March, 2016.

Upon motion duly made and carried, the foregoing Ordinance was approved and passed upon the second and final reading and public hearing on the 11th day of April, 2016.

Ordinance Posted on the City's website on 10th day of March, 2016. Public hearing advertised on March 31, 2016 in the Riverland News and on the City's website.

ATTEST:

CITY OF DUNNELLO

Dawn M. Bowne, M.M.C.
City Clerk

Nathan Whitt, Mayor

Approved as to Form and Legal Sufficiency:

Andrew Hand, City Attorney

I HEREBY CERTIFY that copies of the foregoing Ordinance were posted at City Hall, the Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, and on the City's Official Website this 10th day of March, 2016.

Dawn M. Bowne M.M.C.
City Clerk

EXHIBIT A

ORDINANCE #ORD2016-04

PART I - CHARTER

CHARTER OF THE CITY OF DUNNELLON, FLORIDA

Section 1. - [Establishment of new municipality.]

The municipality of Dunnellon, Florida, is hereby declared to be a legally incorporated and organized municipality under the various acts of the legislature of the State of Florida, and entitled to all the rights and privileges of a municipal corporation under the laws of the State of Florida. The existing municipal government of the Town of Dunnellon in the County of Marion and State of Florida, be and the same is hereby abolished.

All the provisions of Laws of Fla. ch. 6050 (1909), Laws of Fla. ch. 6340 (1911), Laws of Fla. ch. 6680 (1913), Laws of Fla. ch. 18503 (1937), Laws of Fla. ch. 18504 (1937), Laws of Fla. ch. 61-2090, Laws of Fla. ch. 67-1297, and Laws of Fla. ch. 67-1298 are hereby repealed.

Section 2. - [Ordinances, resolutions, etc., preserved].

All ordinances and resolutions heretofore passed, and all acts, deeds, contracts, and things heretofore done by and through the mayor and town council and other officers of said town not in conflict with the laws of this state, are hereby declared to be as legal and valid as if the record of such incorporation and organization had been in existence and upon record.

The title, rights and ownership of all property, both real and personal, uncollected taxes, dues, claims, judgements, decrees, choses in action, and all property and property rights held or owned by the municipality named "Town of Dunnellon" abolished by this act, shall pass to and be vested in the municipal corporation organized under this Charter to succeed the municipality abolished.

Section 3. - [Creation of new municipality.]

A municipality to be called the City of Dunnellon is hereby established in Marion County, the corporate limits and area of which shall be described as follows:

Beginning at the intersection of the west boundary line of Section 34, Township 16 South, Range 18 East, and the north bank of the Withlacoochee Backwater for a point of beginning; thence northerly along the west boundary of Section 34, and the west boundary of Section 27 to the northwest corner of the south half (S-½) of Section 27; thence easterly along the north boundary of the south half (S-½) of Section 27, and the north boundary of the south half (S-½) of Section 26, and the north boundary of the south half (S-½) of Section 25, all in Township 16 South, Range 18 East, and along the north boundary of the southwest quarter (SW-¼) of Section 30, Township 16 South, Range 1 East to the northeast corner of the southwest quarter (SW-¼) of said Section 30; thence southerly along the east boundary of the southwest quarter (SW-¼) of said Section 30 and the east boundary of the west half (W-½) of Section 31, Township 16 South, Range 19 East; and the east boundary of the west half (W-½) of Section 6, Township 17 South, Range 19 East, and the east boundary of the west half (W-½) of Section 7 Township 17 South, Range 19 East, to the intersection of said east boundary with the north bank of the Withlacoochee River; thence northwesterly along the north bank of the Withlacoochee River and the Withlacoochee Backwater of the point of beginning.

Section 4. - [Powers.]

Said municipal corporation shall have perpetual succession, may sue and be sued, plead and be impleaded, may condemn by the exercise of the right of eminent domain, purchase, lease, receive, and hold property, real and personal, within said city, and may purchase, acquire, receive and hold property, real and personal, beyond the limits of the city, to be used for the burial of the dead, for the erection of water works, electric light and other illuminating plants; for the establishment of poor houses, houses of detention and correction, for public parks and promenades and other public purposes that the mayor and city council may deem necessary and proper, and may sell, lease, or otherwise dispose of such property for the benefit of said city to the extent as a natural person may. Said city shall have the use of a common seal and may change it at pleasure.

Section 5. - [Additional powers.]

The city council shall have power to levy and collect taxes on all property taxable by law for state purposes; to levy and collect occupational license taxes on all privileges, businesses, trades, occupations, and professions which are operated, conducted, or engaged within the limits of said city, and the amount of such license tax shall be fixed by ordinance, which amounts of said taxes shall not be dependent upon a general state revenue law. To levy special assessments for public improvements, street paving, building, and sidewalks and improving public property and shall have the power and authority to levy and assess against property benefited thereby special assessments; to appropriate money and to provide for the payment of all debts and expenses of the city; to make regulations to prevent the introduction of the contagious diseases in the city; to establish hospitals, jails, houses of detention and correction, and to make regulations for the government thereof; to make regulations to secure the general health of the inhabitants and to prevent and remove nuisances; to provide for the cleaning and keeping in good sanitary condition all premises within the limits of the city; to provide the city with water by waterworks within or beyond the boundaries, by contract or otherwise; to provide for the extinguishment of fires and to organize and establish fire departments; to establish fire limits and to regulate the construction of buildings therein, and to prevent the construction of any building with inflammable material within such limits. To require the use of brick, stone, or concrete in the erection of all buildings in such limits.

To condemn and order removed, or remove, any building that may endanger the property of others when the owners of such building refuse to make the same safe; to provide for lighting of the city by contract or otherwise; to make appropriations; to open, alter, abolish, widen, extend, establish, pave, improve and keep in repair streets, alleys, and sidewalks; to sell, convey or lease the mining rights in any street or alley abolished or discontinued; to erect, establish, regulate, and keep in repair privies, culverts, sewers, and gutters; to grant rights and privileges to and upon streets, alleys, ways, and avenues of the said city for public utilities; to make appropriations for lighting streets and public buildings, and for erection of all buildings necessary for the use of the city; to license hackney carriages, carts, omnibuses, automobiles, wagons, and drays and to fix the rate to be charged for the carriage of persons and property within the city; to regulate the speed of trains, automobiles, motorcycles, and bicycles within the limits of the city; to prohibit and suppress all gambling houses, bawdy and disorderly houses and obscene pictures and literature; to regulate dance halls, poolrooms, and all places of public amusements, and all saloons; to regulate, restrain or prevent the carrying on of manufactories dangerous in causing or producing fires and to regulate the license for the sale of firearms and to suppress the carrying of concealed weapons; to prohibit and regulate the storage of combustible, explosive, or inflammable goods or materials or products of any kind; to provide for and to regulate the inspection of beef, pork, flour, meal, and other provisions, oils, whiskey, and other spirits; to regulate inspection of milk, butter, lard, and other provisions; to regulate the vending of meat, poultry, fish, fruits, and vegetables, to establish and regulate markets, and to require all fresh meats, fish, poultry, and vegetables to be sold therein; to regulate, tax, license, or suppress the keeping and going at large of all animals, including dogs, within the city limits, to impound the same, and in default of redemption in pursuance of the ordinance, to sell, kill, or otherwise dispose of the same; to establish pound limits within the city; to regulate weights and measures; to provide for enclosing, improving, and regulating public buildings and grounds belonging to the city in or out of the corporate limits; to purchase, lease, receive and hold property, real and personal, for the use and benefit of the city, and to sell, lease, mortgage or otherwise dispose of any and all of the corporate

property, both real and personal for the benefit of the said city; to erect, repair, alter, and change public buildings and to make any and all other improvements necessary for the city; to borrow money and pledge the corporate property, as security therefor, for making such improvements as may be necessary for the city; to regulate the anchorage or mooring of vessels, lighters, rafts, boats, and all other water craft in front of the streets, and all such property as may be owned or controlled by the city; to pass all ordinances necessary for the health, morals, convenience, and safety of the citizens; to secure peace and good order in the city and to carry out the further intent and meaning of this act and to accomplish the objects of this incorporation; to provide for the appointment of a police force; to punish resisting arrest or restraining process and obstructing or opposing any police officer of said city; to provide for the arrest of any persons violating any ordinance and for their punishment, upon conviction, by fines, forfeitures, penalties, imprisonment with or without labor; but no penalty shall exceed five hundred dollars, and no term of imprisonment shall be for a longer time than three months for the same offense.

Prior to purchase by the city of major items over \$5,000.00, they shall be advertised for bids, except in cases where the health and welfare of the community will be jeopardized. Sealed bids shall be accepted and the purchase shall be authorized by a majority vote of the city council.

The city council shall be permitted to waive bidding requirements when, in the discretion of a majority of the council members, it is determined that it is in the best interest of the city to share a bid price with another entity.

No city parks, beaches or recreation areas shall be disposed of without a referendum approval by a majority vote.

Section 6. - [Powers granted by law.]

In addition to the rights, powers, and authority herein granted to the City of Dunnellon, the said city shall have and exercise all other rights, powers, and authority, including the powers of home rule granted by the constitution of the State of Florida and by the general laws of the State of Florida to incorporated cities, where the same are not in conflict with the provisions of this Charter.

Section 7. - [Powers vested in the city council.]

All the powers of the city shall be vested in the city council, except as otherwise provided by law or this Charter, and the city council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The city council shall have authority to create and establish such other offices of the said City of Dunnellon as may be necessary and to consolidate such offices so created by them, and to abolish the same upon the expiration of the term of any office so created.

Section 8. - Elections.

No person shall be eligible to hold office who shall not at the time of his election be a qualified elector of said city, residing within the territory thereof; and in case any officer shall remove his residence beyond the limits of said city his office shall thereby immediately become vacant. In case any vacancy [shall occur in any city office, such vacancy] shall be filled by a majority vote of all the members of the city council, and the person so appointed by the city council shall hold office until the next annual or special election of officers and until his successor is elected and qualified.

Section 9. - [Mayor as member of the city council.]

Effective with the December 1991 city election, one (1) seat on the city council will be filled by a mayor's position through an election process. This seat will be the mayor's position. Whereupon in the initial year of election seat number one will be the mayor's position. In subsequent years it will be known as the mayor's position.

Section 10. - [Mayor's court.]

Editor's note— Section 10 was editorially deleted as municipal courts were abolished by article V, section 20(d)(4) or the state constitution.

Section 11. - [Veto power of mayor's duties.]

Editor's note— Section 11 was editorially deleted as Ordinance No. 72-14, § 5, adopted on October 23, 1972, states that the mayor shall not have veto power.

Section 12. - Mayor's duties.

The candidate elected to Seat 1 shall be designated as the mayor. The mayor shall preside over all meetings of the city council, and shall execute documents and correspondence as authorized. City ordinance may provide other duties and responsibilities of the mayor.

Section 13. - [Impeachment of elected officers.]

Editor's note— Section 13 was editorially deleted as superseded by F.S. § 100.361, pertaining to municipal recall. The user's attention is directed to section 51 of this Charter.

Section 14. - [Vacancy.]

In the event of the death or absence of the mayor from the city, or his inability from sickness or other cause to discharge the duties of his office, the president pro tempore shall discharge the duties of the mayor.

Section 15. - City council.

(a) The legislative power of the corporation shall be exercised by a city council composed of five members who shall serve for a period of four (4) years and until their successors are elected and qualified. All members of said city council shall be elected in even -numbered calendar years beginning with three (3) members of said city council being elected in the calendar year of 2010, and one (1) member of said city council and the mayor being elected in an even-numbered calendar year beginning with the calendar year of 2012. Councilmembers may not serve more than two (2) consecutive terms of four (4) years, without an intervening period of at least one (1) year.

(b) To adjust the Councilmember's and Mayor's terms from two (2) to four (4) year staggered terms, the terms shall be configured as follows:

Mayor Seat 1 shall expire in 2012 - instead of 2011,

Seat 2 expires in 2010, Seat 3 expires in 2010 and Seat 4 expires in 2010.

Seat 5 shall expire in 2012 - instead of 2011.

Seat 1 and 5 shall be filled in 2012 for four (4) year terms. Seats 2, 3, and 4 shall be filled in 2010 for four (4) year terms.

(c) The city council shall be paid a salary of one hundred fifty dollars (\$150.00) per month per council member.

Section 16. - [Quorum.]

The majority of the members of the city council shall be required to form a quorum for the transactions of business, but a smaller number may adjourn from day to day.

Section 17. - [City council powers.]

The city council of the City of Dunnellon shall have power to make and pass such bylaws and regulation and rules of order for the guidance of such city council and the conduct of its business as it may deem expedient and to enforce the same by fine or penalty, to compel the attendance of its own members at any and all meetings of said council and the appearance before it at any meeting of any other officer of said city.

Section 18. - [Ordinance adoption procedure.]

Editor's note— Ordinance 96-14 allowed section 18, pertaining to ordinance adoption procedure, to be editorially deleted and covered in F.S. ch. 166.

Section 18a. - City manager.

The city council shall appoint and remove a city manager by majority vote. The city manager shall appoint, remove, suspend, supervise and manage the department heads and all other city employees. The city manager will report directly to the city council.

The city manager shall be chief administrator of the city, and responsible for municipal administration. He or she shall enforce all ordinances and laws of the city and the orders of the city council and see that the same are duly observed and enforced. City ordinance shall provide for other powers and responsibilities of the city manager.

Section 19. - City clerk.

There shall be one office of city clerk and tax collector; and said official shall be empowered by the city manager. He or she shall be known and sign all documents, rolls, and papers as city clerk. He or she shall give such bond as the city council may require. He or she shall attend all special and regular meetings of the city council; and shall keep a record of all proceedings and acts of the city council and shall keep a record in books to be kept for the purpose of ordinances and resolutions passed by the city council. The clerk shall issue all occupational licenses and shall collect all taxes due the city and perform all such other duties as usually pertains to the office of city clerk and tax collector and as may be required.

Section 20. - [City clerk's duties.]

The city clerk shall also serve as city treasurer. He shall be known and designated as city treasurer and shall sign all documents and papers as city treasurer; he shall give such bond as the city council may require; he shall keep complete and correct accounts and records of all moneys received by him and paid out, and of all transactions of his office.

Section 21. - City treasurer.

The city treasurer shall pay out no funds of the city except upon the authorization of the city manager. The city treasurer shall not make any payment unless there are funds sufficient to meet or cover such payment.

Section 22. - Chief of police.

There shall be a chief of police appointed by the city manager of said city. He shall give such bond as the city council may prescribe. It shall be the duty of the chief of police to perform such duties as may

be proper to his office under the provisions of law, or required by ordinance. He shall have control of the police force, subject to the command of the city manager, and shall have police power of arrest.

Section 23. - [Chief of police's duties.]

The chief of police and members of the police force shall have power and authority to immediately arrest, with or without warrant, and take into custody any person or persons who shall commit, threaten, or attempt to commit in his presence or within his view, any offense prohibited by the ordinances of the city.

Section 24. - [Chief of police's powers.]

The chief of police and members of the police force in addition to the powers incident to their office, and as herein designated, shall possess common law and statutory power and authority of constables except for the service of civil process.

Section 25. - Sanitary inspector.

The city manager shall have power to require the [building inspector] to perform the duties of sanitary inspector and perform such other duties with reference to the inspection of property and premises and reporting the same, as the city council may require.

Section 26. - Director of public works.

Editor's note— Section 26 was deleted by Ordinance No. 02-07, adopted June 10, 2002.

Section 26a. - [Discrimination prohibited.]

It is hereby declared to be the public policy of the City of Dunnellon that all city employees shall be hired without regard to race, creed, color, religion, or national origin.

Section 27. - [Taxation.]

The city council shall have the power to raise by tax and assessment upon all real and personal property all sums of money which may be required for the maintenance, the improvement, and good government of the city and the carrying out of the powers and duties herein granted and imposed.

Section 28. - [Collection of ad valorem taxes.]

Editor's note— Section 28 of the Charter was editorially deleted as the county collects all ad valorem taxes pursuant to F.S. ch. 193 et seq.

Section 29. - [Tax levy.]

Taxes levied by the city council shall be certified to the county tax assessor and county tax collector and shall be levied by the county tax assessor and the county tax collector in accordance with the governing statutes of the State of Florida.

Section 30. - [Tax sales.]

Editor's note— Section 30 on sale of property for delinquent taxes was editorially deleted as covered by F.S. ch. 197.

Section 31. - [Jurisdiction.]

The city council shall have full and complete jurisdiction, charge, and control over all the public roads, public grounds, public parks, ways, avenues, streets, alleys, and all dedicated public property in the limits of said city, and shall have power to cause obstructions to be removed therefrom, and to restrain and regulate the use and occupation of the same by any person or corporation whatsoever to the end that the safety, comfort, and welfare of the public may be secured and preserved.

Section 32. - [Sidewalk regulations.]

The city council of the City of Dunnellon is hereby authorized by ordinance to regulate, provide for, and require the construction and repair of sidewalks and foot pavements along and in front of lots fronting or abutting upon any street, park, or other public place in said city, by owners of such lots; and if the owner or owners of any lot shall fail to comply with the provisions of such ordinance, the city council of said city may have the sidewalks or foot pavements constructed or repaired along and in front of any such lot, which from the date of completion of the work shall be a lien superior to all other liens, excepting any liens for taxes, upon such lots along and in front of which the sidewalk or foot pavement has been constructed or repaired and the cost thereof, with interest, may be assessed as a special tax against the lot along or in front of which such sidewalk or foot pavement was constructed or repaired, or the lien for the cost thereof, with interest, may be enforced against the property by suit at law or in equity. As soon as practicable and within thirty days after the construction or repair of any such sidewalks or foot pavements, the city council shall have prepared a statement of the cost thereof and shall have entered up in a book which shall be prepared for that purpose, and kept open to public inspections, during reasonable office hours, in the office of the city clerk, labeled "Street Improvement Lien Book," the amount of such cost, the date of the completion of the work, the lot upon which a lien is claimed, and such other information as the council may deem advisable; provided, however, that if the cost of such construction or repair shall be paid to the city within forty days after the completion of the work, no interest thereon shall be charged, and provided, further, that any person owing any lot or owning an interest therein, or having a lien thereon, shall have the right at any time within sixty days after the completion of the construction or repair of any sidewalk or foot pavement, to present to the city clerk a sworn petition to the city council stating his interest in the property and alleging that in the opinion of the petitioner the cost of the construction or repair of such sidewalk or foot pavement as entered up in the Street Improvement Lien Book exceeds the actual cost thereof, or is otherwise erroneously entered up, or exceeds the special benefits accruing to the lot affected by the lien.

If such petition is presented within said time to the city clerk, the city council shall hear and consider the petition and make due and proper inquiry into the question involved, and if it shall appear to their satisfaction that the cost as entered up is erroneously stated or entered up, or exceeds the special benefits accruing to the lot affected by the lien, the city council shall by resolution so declare and shall have the entry thereof in the Street Improvement Lien Book corrected, and shall fix the amount to be charged up against such lot at the amount not exceeding in the discretion of the city council, the special benefits accruing to such lot, and the amount so fixed shall stand as the amount of such lien, and any amount of such cost found to be in excess of special benefits shall be paid by the city. In all cases where no petition shall have been filed as herein before provided within sixty days after the completion of the construction or repair of any sidewalk or foot pavement, the cost thereof as entered up in said book shall become and be a fixed lien upon the lot. In no event shall the validity of such lien as primarily entered in said Street Improvement Lien Book, or as fixed by the city council on petition duly presented, be questioned in any direct or collateral proceeding instituted more than three months after the completion of the work, and a copy of the entry of any such lien in the Street Improvement Lien Book, certified by the city clerk under the corporate seal of the city, shall constitute prima facie evidence of the amount and existence of the lien upon the property described. Any person owning or interested in any lot upon which a lien exists shall have the right to pay off said lien in four quarterly installments, paying the first installment of one-fourth of the cost, with interest on the whole amount to date of payment within two months after the completion of the work; the second installment of one-fourth of the cost with interest to date of payment within five months after the completion; the third installment of one-fourth of the cost with interest to date of payment within eight months after completion, and the remainder with interest to date of payment within eleven months after the completion, but failure to pay any of such installments within

the time prescribed shall cause the whole amount to become due and payable, and it shall be the duty of the municipal authorities to enforce the payment of any such lien in all cases where the owner shall be in default of any payment more than three months. The word "lot" wherever used in any section of this Charter shall be construed to mean any lot, piece, or parcel, or other division or subdivision of land; and the word "street" wherever used shall be construed to mean street or part of street, and to include lanes, alleys, driveways, parkways, and all thoroughfares; and the word "park" wherever used shall be construed to include public squares, and all other places other than streets; and the word "work" shall be construed to include the purchase of all things necessary to be done under the ordinance; and the liens hereby created shall cover interest and all costs and expenses of publication of notices and costs of collection, including reasonable attorney's or solicitor's fees and commissions and court costs. The city authorities having charge of the collection of any lien whether provided for in this or other sections of this Charter shall have the right accept from any person owning or interested in any part of a lot which may be included with other lands in an entry in the Street Improvement Lien Book the proportionate of the amount covered by the lien, retaining a lien for the remainder of such amount upon the remaining lands, and shall have the right to accept from any person owning or having an undivided interest in any lot the proper proportionate of such lien, retaining a lien for the remainder of such amount the remaining undivided interest in said lot. All payments when made upon liens shall be noted in the Street Improvement Lien Book.

Section 33. - [Oath.]

All officers of said city before entering upon the duties of their offices shall take and subscribe to an oath to faithfully perform the duties of their office.

Section 34. - [Powers of officers.]

The officers of the City of Dunnellon shall have and exercise all the powers conferred by general law upon municipal officers, not inconsistent with the terms of this Charter. The said officers shall have the power to condemn lands and their appurtenances for the same purpose and in the same manner as is set forth and provided in the statutes of the State of Florida.

Section 35. - [Public improvements.]

The city council shall have exclusive power to make all public improvements and expenditures authorized by ordinance but shall let all contracts, in the amount of \$5,000.00 or greater, to the lowest responsible bidder. The city council shall be permitted to waive the bidding requirements when it is determined that it is in the best interests of the city to share a bid price with another entity.

Section 36. - [Suits against the city.]

Editor's note— Section 36 was editorially deleted as covered by the waiver of sovereign immunity in F.S. § 768.28 and the repeal of the notice requirement by F.S. § 95.241(1979).

Section 37. - [City attorney.]

City council shall have the power to contract with an attorney at law to act as regular advisor of the city council and attorney for said city; the city attorney's duties and compensation shall be prescribed by ordinance or resolution.

Section 38. - [Compensation.]

The city council shall not change or increase or decrease the compensation of any elected officer during the term for which he is elected thereto.

Section 39. - Holding of elections.

(A) Candidates shall run for specific seats designed by number. The person receiving the highest number votes cast in a general or special election shall be elected. In case two or more persons

receive an equal and highest number of votes for the same seat, such persons shall participate in a run-off election which shall be held on the first third Tuesday in January following the general or special election. ~~after the first Monday in December.~~

[(B)] The city council shall provide for the holding of elections of the city and for canvassing the votes and certifying the results thereof.

[(C)] Each candidate for the office of city councilman shall, at the time of qualifying, pay a nonrefundable qualifying fee of \$45.00 to the City of Dunnellon.

(D) The elections shall be held as near as may be in accordance with the provisions of the law governing elections for state officers, and the same form of ballot shall be used as is now provided by law for use in the election of state officers; and the city clerk shall have the official ballots prepared and printed. Any person desiring their name printed on the official ballot as a candidate for office shall, no earlier than noon of the 78th day to no later than noon of the 74th day before any election, file with the city clerk a petition signed by ten or more electors of said city, asking that their name be placed upon the official ballot for such office. The city council shall place upon the official ballot the names of those persons whose petitions have been filed within the time provided, and no other.

[(E)] The city council may authorize the use of voting machines in any and all of said elections.

Section 40. - [Ordinances continued.]

That all ordinances and resolutions heretofore adopted by the town council of the Town of Dunnellon and not heretofore repealed be, and the same hereby are, continued in force until repealed by said council.

Section 41. - [Streets.]

The city council of the City of Dunnellon shall have power, by ordinance, to regulate, require, and provide for the construction and repairing of streets and for the grading and paving of the same; and in all cases when the said city council shall determine to construct, grade, or repair any street, or any part thereof, requiring to be constructed, graded, or repaired, the city may order and have such work done and the amount expended, or to be paid therefor, shall be a lien on the lots fronting or abutting on such street, pro rata according to the number of lineal feet of said lots fronting or abutting on such street, and may be enforced or recovered in the same manner as provided for in Florida Statutes as set forth in relation to sidewalks and foot pavements, provided that the owners of the property on each side of the street, when such street shall be constructed, paved, graded, or repaired, shall only be liable for one-third of the actual cost of construction, paving, grading or repairing; one-third of which cost of such construction, paving, grading, or repairing shall be paid for by the City of Dunnellon as other improvements.

Section 42. - [City council rules and regulations.]

The city council of the City of Dunnellon shall have full power by ordinance to establish rules [and] regulations for the filing of all vacancies which may occur in the city government, and for such other elections as may be provided by law, to pass ordinances providing for and regulating the nomination of all candidates for office and for the conducting and calling of all elections.

Section 43. - [Voter qualifications.]

Any persons who shall possess the qualifications requisite for an elector at general state elections and shall have resided in said City of Dunnellon, Florida, for six months next preceding the election and shall have registered in the municipal registration books as shall be prescribed by ordinance shall be a qualified elector of the City of Dunnellon at all actions held therein; provided that state or county registration shall not be required to qualify as an elector to vote at any election in said city, and further provided that no person shall vote in any bond election held in said city who is not a qualified elector therein.

Editor's note— Section 43 has been superseded by the qualifications for electors which are established in F.S. §§ 166.032, 98.091(3) and 97.041.

Section 44. - [Bonds.]

The city council shall have the power with the approval of a majority of the votes cast by electors in said city to issue bonds of said city with such maturities and such interest, not exceeding, however, the rate of eight percent per annum, whenever it may be necessary for the purpose of building or repairing roads of said city, for the widening and extension of streets, the improvement of public parks, for sewers and sewer systems, paving of streets and sidewalks, equipping, purchasing, and/or systems in and for said city, or for the payment of existing indebtedness, or for any other municipal purposes for which the City of Dunnellon is authorized to issue bonds, which shall be submitted to the registered voters of said city in such manner and after such notice as the city council may deem necessary, and should a majority of the votes actually cast at such election be in favor of the issuance of such bonds, it shall be unlawful for said City of Dunnellon to issue such bonds for such amount and for such purpose and with such maturities and such rates of interest. That when so authorized the city council of the City of Dunnellon shall have the power to issue such bonds for such purpose and in such amount provided that the total outstanding bonds issued under the provisions of this section shall at no time exceed twenty percent of the total value of property assessed in and by said city for taxation; provided that nothing in this section shall require an election to be held for the purpose of issuing bonds where an election is not now so required by the laws of the State of Florida.

Section 45. - [Certain acts validated.]

All acts, proceedings, assessments, both general and special, heretofore done, had, performed, or made by the City of Dunnellon or any officials of said city are hereby validated, ratified, and confirmed.

Section 46. - [Charter amendments.]

Editor's note— Ordinance No. 96-14 allowed section 46, pertaining to Charter amendment procedures, to be editorially deleted as covered in F.S. ch. 166.

Section 47. - [Notice.]

In all cases where notice is required by this Charter of acts, doings, proceedings, assessments, sales, or other legal notices, said notice shall be given at least one week in advance of such act, doing, proceeding, assessment, sale or event by publication in a newspaper published in the City of Dunnellon, and in addition such notice may in the discretion of the city council be posted in three public places in the City of Dunnellon, one of which shall be at the door of the city hall; provided that if there is no newspaper published in the City of Dunnellon, said notice shall be given at least one week in advance of such act, doing, proceeding, assessment, sale or event by publication in a newspaper published in Marion County, Florida, and by posting in three public places in the City of Dunnellon, one of which shall be at the door of the city hall; provided further, that if there is no newspaper published in Marion County, Florida, then said notice shall be given by posting as herein provided.

Section 48. - [Effective date.]

This act shall take effect immediately upon becoming a law, subject to the referendum as provided herein.

Section 49. - [Referendum.]

This act shall become effective only upon approval by a majority vote of the electors voting in a referendum election to be held in the City of Dunnellon, Marion County, Florida, at a general or special election to be called by the present town council of the Town of Dunnellon, Florida, prior to December 31,

1971. Such election shall be held in conformity with the laws and ordinances now in force relating to elections in the Town of Dunnellon, Florida.

In the event such election is not held as authorized and provided, this act is void.

Section 50. - [Form of ballot.]

All electors of the Town of Dunnellon, Florida, qualified to vote under the laws and ordinances now in effect, relating to elections in the Town Dunnellon, Florida, shall be qualified to vote in the election called for the purpose of ratifying this Charter. The ballot to be used in said election shall be in substantially the following form:

"Shall the legislative Charter providing a form of government for the City of Dunnellon, Florida, as passed by the 1971 legislature of the State of Florida, be adopted?

_____ FOR ADOPTION

_____ AGAINST ADOPTION"

Provided a majority of the qualified electors voting in said election vote "for adoption" then the provisions of this Charter shall become operative and be in full force and effect on, from and after the said date of said election.

Section 51. - [Recall of city councilman.]

Any or all members of the city council may be removed from office by the electors of the city pursuant to the method and procedures of F.S. § 100.361 and as subsequently amended.

Select Year:

The 2015 Florida Statutes

[Title IX](#)
ELECTORS AND
ELECTIONS

[Chapter 100](#)
GENERAL, PRIMARY, SPECIAL, BOND, AND
REFERENDUM ELECTIONS

[View Entire
Chapter](#)

100.342 Notice of special election or referendum.—In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality, the notice shall be posted in no less than five places within the territorial limits of the county, district, or municipality.

History.—s. 1, ch. 59-335; s. 2, ch. 65-60; s. 12, ch. 77-175.

Select Year:

The 2015 Florida Statutes

[Title IX](#)
ELECTORS AND
ELECTIONS

[Chapter 100](#)
GENERAL, PRIMARY, SPECIAL, BOND, AND
REFERENDUM ELECTIONS

[View Entire
Chapter](#)

100.351 Referendum election; certificate of results to Department of State.—Whenever an election is held under a referendum provision of an act of the Legislature, the election officials of the governmental unit in which the election is held shall certify the results thereof to the Department of State, which shall enter such results upon the official record of the act requiring such election on file in the office of the Department of State.

History.—s. 1, ch. 25438, 1949; s. 4, ch. 26870, 1951; ss. 10, 35, ch. 69-106; s. 12, ch. 77-175.

Note.—Former s. 99.59.



Meeting Date: 11/4/2015
From (Dept): City Clerk
Signature: _____
Department Director
Approved for: _____
Agenda: _____
City Manager

Official Use Only
Reviewed by: _____
City Attorney: _____
Council Action: _____
Date: _____

SUBJECT: Amendment to Section 39 of City's Charter Needed to Comply with Federal
Request For Approval: Requirements for Mailing of Overseas Ballots

SUMMARY EXPLANATION & BACKGROUND:
See attachment containing sections of City's Charter and Chapter 26 of the City's Election Code that need to be addressed. In addition see e-mail from Marion County Supervisor of Election. Mr. Wilcox has notified us that our run-off election date outlined in our Charter does not provide him adequate time to mail overseas ballots.

FISCAL INFORMATION: _____

RECOMMENDED ACTION: Amend charter and code to comply with Federal Requirements

Initiated by: dmb _____

CITY OF DUNNELLON

11/04/2015

Current Charter Language: Section 39. - Holding of elections:

(a)Candidates shall run for specific seats designed by number. The person receiving the highest number votes cast in a general or special election shall be elected. In case two or more persons receive an equal and highest number of votes for the same seat, such persons shall participate in a run-off election election which shall be held on the **first Tuesday after the first Monday in December**. *(Words in bold in (a) are in conflict with the State Statute requiring the Supervisor of Elections to mail overseas ballots 45 days prior to any election. They need 70 days to prepare and mail ballots in order to meet this requirement, which would be approximately the third Tuesday in January following the regular election. The alternative is to adopt Florida State Statute 100.181; Determination of person elected.—The person receiving the highest number of votes cast in a general or special election for an office shall be elected to the office. In case two or more persons receive an equal and highest number of votes for the same office, such persons shall draw lots to determine who shall be elected to the office.)*

Current Language in Chapter 26-2 of Election Code:

(a)A general election shall be held in the city on the first Tuesday after the first Monday in November and annually on the same day thereafter.

(b)The city council shall, at the first regular council meeting held in August, issue a proclamation calling such election.

(c)The successful candidates for city council shall take office and **be sworn in at the first regular scheduled meeting of the city council following the election**~~and subsequent to the publication of the certified election results by the County Supervisor of Elections.~~

Current Language in Chapter 26-5 of Election Code:

(a)The city clerk shall present the election returns to the city council, which shall, at the **next regular meeting following any regular or special election and subsequent to the publication of the certified election results by the County Supervisor of Elections**, declare the results of the election. The results of the election as declared by the city council shall be recorded in the minutes of the meeting showing in words and figures the whole number of votes given for such office, the names of the persons for whom such votes were given and the number of votes given for each person for such office.

(b)The person receiving the highest number of votes cast in a general or special election for an office shall be elected to the office. In case two or more persons receive an equal and highest number of votes for the same office, such persons shall participate in a **runoff election**.

From: [Wesley Wilcox](#)
To: [Virginia Cassady](#); [Dawn Bowne](#)
Cc: [Eddie Esch](#); [Kim Hankemeyer](#)
Subject: RE: City of Dunnellon
Date: Wednesday, May 06, 2015 10:22:58 AM
Attachments: [image001.png](#)

Yes, I believe it does. I knew there was something, that potentially took a little longer, but couldn't quickly come up with it off the top of my head (maybe I subconsciously blocked it).

Wesley

WESLEY WILCOX, CERA
SUPERVISOR OF ELECTIONS
Marion County, Florida
PO Box 289
Ocala, Florida 34478-0289
Phone: 352.620.3290
Fax: 352.620.3286
Web: www.VoteMarion.com

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From: Virginia Cassady [mailto:vcassady@shepardfirm.com]
Sent: Wednesday, May 06, 2015 10:02 AM
To: Wesley Wilcox; Dawn Bowne
Cc: Eddie Esch; Kim Hankemeyer
Subject: RE: City of Dunnellon

You were reading my mind. I had these questions. Should Dawn and I be discussing how much time between the election, a possible re-count (if a runoff is ultimately required, then wouldn't a re-count request be within the realm of the possible?), and the certification to your office?

Does your timeline below take into consideration the possibility of re-count?



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From: Wesley Wilcox [<mailto:WWilcox@VoteMarion.com>]
Sent: Wednesday, May 06, 2015 9:21 AM
To: Virginia Cassady; Dawn Bowne
Cc: Eddie Esch; Kim Hankemeyer
Subject: RE: City of Dunnellon

Virginia,

Thank you for your thorough research, I had NOT dug that deep. But will file away this information, just in case.

I concur, concerning Election Law. There are multiple instances of challenging sections.

Please keep in mind, that although overseas requirements are 45 days, we do need some time to actually prepare the ballots to be mailed. I prefer a minimum of 70 days. My very basic thought process for a run-off or any other "follow-up" type Election.

Original Election Day (E)
Provisional Ballots (E+2)
Audit (E+6)
Ballot Preparation (10 days)

So once you add those days to the 45 (we actually mail on 46, which is a Friday), you end up close to 70, which is the nearest Tuesday.

Let me know, if I can be of assistance.

Wesley

WESLEY WILCOX, CERA

SUPERVISOR OF ELECTIONS

Marion County, Florida

PO Box 289

Ocala, Florida 34478-0289

Phone: 352.620.3290

Fax: 352.620.3286

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From: Virginia Cassady [<mailto:vcassady@shepardfirm.com>]

Sent: Tuesday, May 05, 2015 6:26 PM

To: Wesley Wilcox; Dawn Bowne

Cc: Eddie Esch; Kim Hankemeyer

Subject: RE: City of Dunnellon

Mr. Wilcox, I believe you are correct that Sec. 100.3605(2) applies and allows the City of Dunnellon to amend its charter for elections or any run-off elections.

When reading 101.75(3) together with 101.3605(2), we are required to read the two in tandem to give both their full effect. 101.75(3) was amended in 2008 and is more restrictive than 100.3605(2), which was adopted in 1995. In interpreting the two, without looking at anything else, it would appear that 101.75(3) restricts 100.3605(2). However, on doing some digging, I found 97.0115, which says, "**The conduct of municipal elections shall be governed by s. 100.3605,**" and AGO 2007-34, which compares the two sections and concludes that 100.3605(2) governs this issue.

The laws regarding elections are daunting, particularly with regard to municipal elections.

I will talk with Dawn about a date when the City would have a run-off election if that should become necessary, taking into consideration that your office has to mail overseas ballots 45 days prior to any run-off (special) election.

Thank you very much for your help.



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From: Wesley Wilcox [<mailto:WWilcox@VoteMarion.com>]
Sent: Friday, May 01, 2015 8:53 AM
To: Virginia Cassady; Dawn Bowne
Cc: Eddie Esch; Kim Hankemeyer
Subject: RE: City of Dunnellon

Ms Cassady,

Please accept that I am NOT attempting to provide any sort of legal advice, since I have no training, education or authority to provide such.

I'm just a guy reading the Statutes.

That being said, and hopefully that's enough of a disclaimer ;)

My opinion is that 101.75, applies WHEN the municipality is holding their Elections on the SAME day as the County Elections.

Therefore, in this instance, I believe 100.3605, specifically (2) would apply.

Wesley

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From: Virginia Cassady [<mailto:vcassady@shepardfirm.com>]

Sent: Thursday, April 30, 2015 6:46 PM

To: Dawn Bowne; Wesley Wilcox

Cc: Eddie Esch

Subject: RE: City of Dunnellon

Dawn and Mr. Wilcox,

I do not think the City can change the date for the run-off election (by ordinance) to accommodate the federal law.

Fla. Stat. 101.75(3) allows the City to move the date of an election by ordinance notwithstanding a charter provision to the contrary, but only if change of date is to a date concurrent with a statewide or countywide election.

City has 2 options:

1. Council can authorize me to prepare a charter referendum ordinance to amend the charter and adopt identical provisions of Fla. Stat. 100.181 for run-offs.

First reading would be June and second reading would be July 13.

Question: When is the soonest date the SOE can arrange for a special election for this referendum, assuming the ordinance for the referendum passes by Council on July 13? City's next elections are in November.

Cons: Citizens may vote against the referendum. City would have to educate citizens on the problem being corrected.

Pros: Having run-off election requirements in charters causes a lot of problems, the problem of being out of sync with this requirement of federal law being one of them. It's much better and less expensive to adopt 100.181, and this problem will be corrected once and for all.

2. To take advantage of 101.75 which allows City to change date to be concurrent with statewide or countywide elections in November, City could pass an ordinance changing the run-off election date to November 2016 (I'm not aware of statewide or countywide elections for Nov. 2015; please correct me if I'm wrong) and changing Sec. 26-2 of the Code to have a special election for the election of officials some time in September before the November run-off date.

Cons: This doesn't correct the problem; early voting for a special election would probably not be an option; the special election would be more costly; the elected officials whose terms would end could be cheated of 2 months of office; the qualification period would be in June; this would only be available in years where there statewide and countywide elections in November.

Perhaps Dawn and I could have a conference call meeting with Mr. Wilcox to iron this out?



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From: Dawn Bowne [<mailto:dbowne@dunnellon.org>]
Sent: Wednesday, April 29, 2015 6:13 PM
To: 'Wesley Wilcox'
Cc: Virginia Cassady; Eddie Esch
Subject: RE: City of Dunnellon

Ok, We'll do. I don't know the Council will agree to remove it but, we could certainly work on the dates.

Dawn M. Bowne

Dawn M. Bowne, MMC
City Clerk
City of Dunnellon
20750 River Drive
Dunnellon, FL 34431
352-465-8500, ext. 1002
352-465-8505 fax
dbowne@dunnellon.org
www.dunnellon.org

Please Note: Florida has a very broad public records law. Written communication to or from city

officials regarding city business is public record and open to inspection including names, addresses, and email addresses. Therefore, your email communication may be subject to public disclosure.

From: Wesley Wilcox [<mailto:WWilcox@VoteMarion.com>]
Sent: Wednesday, April 29, 2015 5:08 PM
To: Dawn Bowne
Cc: Mandy Roberts; Kim Hankemeyer
Subject: FW: City of Dunnellon

Dawn,

I hope all is well and I know you are probably busy.

Kim from my office has reviewed your Charter, and has brought up a question.

Currently Federal Requirements, require us to Mail Ballots to Overseas Military personnel and Civilians, at least 45 days prior to the Election.

As you can see, if we have a run-off, that would NOT be possible.

Therefore, I would like to discuss the run-off. Either completely removing it or changing the date.

This is nothing we need to talk about in the next day or two, but we should start talking about it fairly soon.

Thanks,
Wesley

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From: Kim Hankemeyer
Sent: Tuesday, April 28, 2015 12:46 PM
To: Wesley Wilcox
Subject: City of Dunnellon

Wesley,

Dunnellon's' charter states that a run-off election will be held on the first Tuesday after the first Monday in December. That's 28 days after the November General Election.

Don't know if you wanted to pursue extending run-off date or advise removing by ballot amendment by adopting F.S. 100.181; draw lots to break tie.

Thanks,

KIM HANKEMEYER, MFCEP

Support Services Analyst

Marion County Election Center

981 NE 16th Street

PO Box 289

Ocala, Florida 34478-0289

Tel: 352 620 3294 Ext 220

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E-Mail: KHankemeyer@VoteMarion.com

Web: www.VoteMarion.com

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