

PART I - CHARTER

TABLE OF CONTENTS

PREAMBLE..... 4

Article I. In General..... 4

Article II. Municipal Boundaries 4

Article III. Form and Powers of Government 4

 Section 3.01 Council – Town Manager Government 4

 Section 3.02 General Powers of Town Council..... 4

 Section 3.03 Town Manager 4

Article IV. Powers of the Town 5

Article V. Town Council..... 5

 Section 5.01 Number of Council Members 5

 Section 5.02 Qualifications to Hold Office 5

 Section 5.03 Vacancies..... 5

 Section 5.04 Forfeiture 5

 Section 5.05 Regular Town Council Meetings 6

 Section 5.06 Special Meetings 6

 Section 5.07 Rules of Town Council Procedure..... 6

 Section 5.08 Salary of Town Council Members 6

 Section 5.09 Powers of the Town Council 6

 Section 5.10 Prohibitions on Town Council Activities 7

Article VI. The Mayor 7

 Section 6.01 Election and Salary of the Mayor 7

 Section 6.02 Qualifications to Hold Office of Mayor..... 7

 Section 6.03 Duties of the Mayor 7

 Section 6.04 Prohibitions..... 7

 Section 6.05 Vacancy..... 7

 Section 6.06 Forfeiture 8

Article VII. Ordinances and Resolutions 8

PART I - CHARTER

Section 7.01 Acts to Be Done by Ordinance 8

Section 7.02 Ordinance Passage Procedure 8

Section 7.03 Resolutions..... 8

Section 7.04 Emergency Ordinances..... 8

Section 7.05 Authentication and Recording of Ordinances, Resolutions and Charter Amendments 9

Article VIII. Town Officers 9

Section 8.01 Town Manager 9

Section 8.02 Town Manager - Powers and Duties..... 9

Section 8.03 Acting Town Manager 10

Section 8.04 Town Clerk 10

Section 8.05 Department Directors 10

Article IX. Miscellaneous Town Positions 10

Section 9.01 Town Auditor 10

Section 9.02 Town Attorney 11

Article X. Voting and Elections 11

Section 10.01 In General..... 11

Section 10.02 Nominations 11

Section 10.03 Election of Town Council and Mayor..... 12

Section 10.04 Persons Elected at All Regular Municipal Elections 12

Section 10.05 Canvass of Returns and Certification of Election..... 12

Section 10.06 Resolution of Tie Votes 12

Section 10.07 Insufficient Number of Elected Candidates 12

Section 10.08 Commencement of Term 12

Section 10.09 Filling of Vacancies at Regular Municipal Elections..... 13

Article XI. Fiscal Management 13

Section 11.01 Town Budget 13

Section 11.02 Preparation and Submission of Town Budget..... 13

Section 11.03 Final Adoption of Town Budget and Effect of Failure to Adopt 13

Section 11.04 Capital Program 13

Section 11.05 Expenditure of Town Funds 13

PART I - CHARTER

Section 11.06 Supplemental Appropriations 13

Section 11.07 Emergency Appropriations 14

Section 11.08 Insufficient Revenues to Meet Appropriations 14

Section 11.09 Transfer of Appropriations..... 14

Section 11.10 Limitations on Debt Service Appropriations 14

Section 11.11 Lapse of Appropriations 14

Section 11.12 Borrowing 14

Section 11.13 Independent Audit 14

Section 11.14 Issuance of Bonds..... 15

Article XII. Legal Limitations 15

Section 12.01 Claims Against the Town 15

Section 12.02 Suits Against the Town..... 15

Section 12.03 Exemption of Town Property from Execution..... 15

Section 12.04 Zoning 15

Article XIII. Historic Sites and Protected Areas 15

Section 13.01 Historic 1887 Windermere Schoolhouse..... 15

Article XIV. General Provisions 15

Section 14.01 Oath of Office 15

Section 14.02 Notice and Publication..... 16

Section 14.03 Variations of Pronouns 16

Section 14.04 Precedence Over Code of Ordinances 16

Section 14.05 Effective Date 16

Section 14.06 Severability 16

Section 14.07 Procedure to Amend 16

Charter Comparison Tables 18

2007 Charter Sections Traced to 2017 Charter 18

Sources for 2017 Charter Sections from 2007 Charter 20

PART I - CHARTER

PREAMBLE

We the people of the Town of Windermere (hereinafter, the "Town"), in order to secure the benefits and responsibilities of home rule do hereby adopt this revised Charter. This government was created to protect the governed, not the governing. We recognize that the orderly, efficient, and fair operation of town government requires the intelligent and informed participation of individual residents. All persons are entitled to receive fair, equitable, and prompt treatment, full and accurate information, and convenient access to public records and government officials.

Acknowledging the Butler Chain of Lakes and other natural resources as the greatest assets of the Town, all public lands owned by the Town shall be utilized, to the greatest extent possible, for the benefit of the residents of the Town, and for the purpose of protecting and maintaining the Outstanding Florida Waters designation of the lakes.

Article I. In General

A municipal corporation under and by the name of the Town of Windermere in the County of Orange, incorporated under the laws of Florida, be and the same is hereby declared to be in all respects a legally incorporated town with all the powers incident thereto under the laws of Florida.

Article II. Municipal Boundaries

The Municipal Boundaries as are now established are on file in the Town Clerk's office. The Municipal Boundaries may be extended from time to time as provided for in the laws of Florida without further amendment of this section. Such up-to-date boundaries of the corporate limits shall be maintained in the office of the Town Clerk and are hereby adopted and incorporated as if set out fully at length herein.

Article III. Form and Powers of Government

Section 3.01 Council – Town Manager Government

The form of government provided by this Charter shall be that known as "Council - Town Manager Government." Subject to the provisions of this Charter, all powers of the Town shall be vested in an elected Town Council (hereinafter, the "Town Council").

Section 3.02 General Powers of Town Council

- (a) The Town Council shall have the following general powers: 1) to enact local legislation; 2) to adopt budgets; 3) to determine policies; 4) to create or abolish Town departments; 5) to appoint such officers of the Town as are hereinafter described; and 6) to exercise all powers, functions and immunities granted to municipalities by the Constitution and the laws of Florida.
- (b) In the event of a conflict between this Charter and any other law, the provisions of this Charter shall control unless such laws shall specifically repeal or amend the provisions of this Charter.

Section 3.03 Town Manager

Except as this Charter otherwise provides, the Town Manager shall execute the laws and administer the government of the Town.

Article IV. Powers of the Town

The Town shall have all governmental, corporate and proprietary powers and authority to enable it to: 1) conduct municipal government, 2) perform municipal functions and 3) render municipal services. The Town may exercise any power for municipal purposes except as otherwise provided by law. The powers of the Town shall be construed liberally in favor of the municipality, limited only by the Constitution, the laws of Florida, and specific limitations contained herein. The specific mention of particular powers in this Charter shall not be construed as limiting in any way the general power granted in this article.

Article V. Town Council

Section 5.01 Number of Council Members

The Town Council shall consist of five (5) members from the Town at large.

Section 5.02 Qualifications to Hold Office

Any person shall be eligible to hold the office of Town Council member provided the person shall have attained the age of eighteen (18) years prior to election or appointment, is a citizen of the United States, and will have been a permanent resident of the Town for twelve (12) consecutive months immediately prior to the resident's election or appointment. For the purpose of qualifying for membership on the Town Council, persons residing within any area at the time of the annexation of that area to the Town shall be deemed to have been residents of the Town for such period of time as such persons have been residents of such annexed area of the Town.

Section 5.03 Vacancies

- (a) The office of a Town Council member shall become vacant upon the member's death, resignation, disability, suspension, forfeiture or removal from office in any manner authorized by law or this Charter.
- (b) If less than a majority of the Town Council is vacant, the Town Council shall appoint a qualified resident to fill any vacancies until the next regular election by the affirmative votes of not less than a majority of the remaining members. If any vacancies are not filled within forty-five (45) days after the seat becomes vacant, the Governor of Florida shall fill any existing vacancies by appointment of a qualified resident. Any appointment under this section shall be to fill any vacancies until the next regular election, at which time the office shall be filled for the remainder of the term.
- (c) In the event that the majority of the Town Council is vacant, the Governor of Florida shall appoint qualified residents as interim Town Council members who shall call a special election not less than sixty (60) calendar days nor more than one hundred twenty (120) calendar days after such appointment. If there are less than six (6) months remaining in a vacant member's unexpired term, the interim Town Council appointee for that vacancy shall serve out the remainder of the unexpired term.

Section 5.04 Forfeiture

- (a) A Town Council member shall forfeit that office if the member: 1) lacks any qualification for office as defined by this Charter; 2) violates any express provisions of this Charter; 3) is convicted of any felony; 4) is convicted of any crime involving moral turpitude; 5) ceases to maintain permanent residence in the Town; or 6) fails to attend any three (3) consecutive regular meetings of the Town Council without being excused by the Town Council.

PART I - CHARTER

- (b) Any Town Council member charged with conduct constituting grounds for forfeiture shall be entitled to a public hearing on demand. Notice of such hearing shall be published at least one (1) week in advance of the hearing. If upon such hearing, at least three (3) Town Council members present shall determine that the member is subject to forfeiture of office, the Town Council shall adopt a resolution removing the member, depriving the member of the right to perform official duties, and declaring the office vacant.
- (c) All votes and other acts of a Town Council member occurring before the effective date of the forfeiture resolution removing that member from office shall be valid, regardless of the grounds of forfeiture.

Section 5.05 Regular Town Council Meetings

Regular meetings of the Town Council shall be held on the second Tuesday of each month, (or the fourth Tuesday of the month if such Tuesday is an election day or a holiday), and at such other times during the year as the Town Council may prescribe by resolution.

Section 5.06 Special Meetings

Special meetings may be held on the call of the Mayor or of three (3) or more Town Council members upon not less than a twelve (12) hour notice to each Town Council member, and a twenty-four (24) hour notice to the public.

Section 5.07 Rules of Town Council Procedure

All meetings shall be public as provided by law. The Town Council shall determine its own rules and order of business, and shall generally follow the rules of procedure in the current version of Robert's Rules of Order. The Town Clerk shall keep minutes of all Town Council meetings open for public inspection and posted on the Town's website. The majority of Town Council members shall constitute a quorum but a lesser number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Town Council. In the event that three (3) Town Council members are unavailable to vote on a particular matter due to required abstention pursuant to state law, the remaining members of the Town Council may vote and approve such matter only by unanimous vote.

Section 5.08 Salary of Town Council Members

Town Council members shall receive no salary or remuneration for their services. The Town Council may by ordinance provide for reimbursement of expenses and establish guidelines and policies for the manner and type of expense to be authorized.

Section 5.09 Powers of the Town Council

- (a) Except as otherwise provided in this Charter, all powers of the Town and the determination of all matters of policy, shall be vested in the Town Council.
- (b) The Town Council shall have the authority to investigate affairs of any department or the conduct of any officer or employee under their jurisdiction. For such purpose, Town Council shall have the power to subpoena witnesses, administer oaths, take testimony, and require the production of records. Failure to obey such subpoena or produce required documents shall result in a misdemeanor of the second degree punishable as provided in section 775.082 or section 775.083 of the Florida Statutes.
- (c) The Town Council shall determine whether or not each officer, clerk or employee shall give bond, and the amount thereof.

Section 5.10 Prohibitions on Town Council Activities

- (a) Except as otherwise provided in this Charter, neither the Town Council as a whole nor any individual Town Council member shall in any manner dictate the appointment or removal of any Town employee. Neither the Town Council nor any Town Council member shall give orders to any subordinate of the Town Manager, either publicly or privately. Nothing contained herein shall limit the investigative powers of the Town Council.
- (b) No elected Town Council member shall hold any appointed Town office or be employed by the Town while in office.

Article VI. The Mayor

Section 6.01 Election and Salary of the Mayor

The Town shall have a Mayor elected from the Town at large. The Mayor shall receive no salary or remuneration for his or her services. The Town Council may by ordinance provide for reimbursement of expenses and establish guidelines and policies for the manner and type of expense to be authorized.

Section 6.02 Qualifications to Hold Office of Mayor

Any person shall be eligible to hold the office of Mayor provided the person shall have attained the age of eighteen (18) years prior to election or appointment, is a citizen of the United States, and will have been a permanent resident of the Town for twelve (12) consecutive months immediately prior to the resident's election or appointment. For the purpose of qualifying for Mayor, persons residing within any area at the time of the annexation of that area to the Town shall be deemed to have been residents of the Town for such period of time as such persons have been residents of such annexed area of the Town.

Section 6.03 Duties of the Mayor

The Mayor shall preside at all meetings of the Town Council, but without vote, except only in the limited circumstance to break an existing tie vote of the Town Council. The Mayor shall be recognized as the head of Town government 1) for all ceremonial purposes, 2) by the Governor of Florida for the purposes of military law and 3) for service of process; but shall have no regular administrative duties. In the absence of the Mayor, the duties of the Mayor shall be discharged by a member of the Town Council as designated by the Mayor or by a majority of Town Council members absent such designation by the Mayor.

Section 6.04 Prohibitions

The Mayor shall not hold any appointed Town office or be employed by the Town while in office.

Section 6.05 Vacancy

The office of Mayor shall become vacant upon his or her death, resignation, disability, suspension, forfeiture or removal from office in any manner authorized by general law or this Charter. If the office of Mayor becomes vacant, the duties of the Mayor shall be discharged by a member of the Town Council, as designated by the Mayor or by a majority of Town Council members in the absence of such designation. If there are more than twelve (12) months remaining in the Mayor's unexpired term, the Town Council shall call a special election as soon as practicable to fill the vacancy.

Section 6.06 Forfeiture

- (a) The Mayor shall forfeit that office if the Mayor: 1) lacks any qualification for office as defined by this Charter; 2) violates any express provisions of this Charter; 3) is convicted of any felony; 4) is convicted of any crime involving moral turpitude; 5) ceases to maintain permanent residence in the Town; or 6) fails to reasonably discharge the duties of the office of Mayor.
- (b) Any Mayor charged with conduct constituting grounds for forfeiture shall be entitled to a public hearing. Notice of such hearing shall be published at least one (1) week in advance of the hearing. If upon such hearing, at least three (3) Town Council members present shall determine that the Mayor is subject to forfeiture of office, the Town Council shall adopt a resolution removing the Mayor from office, depriving the Mayor of the right to perform official duties, and declaring the office vacant.
- (c) All votes and other acts of the Mayor occurring before the effective date of the forfeiture resolution removing the Mayor from office shall be valid, regardless of the grounds of forfeiture.

Article VII. Ordinances and Resolutions

Section 7.01 Acts to Be Done by Ordinance

Any act of the Town Council: 1) establishing a fine or other penalty; 2) adopting or amending an administrative code; 3) establishing, altering or abolishing any department, office or agency of the Town; 4) levying taxes; or 5) amending or repealing any ordinance; shall be done by ordinance.

Section 7.02 Ordinance Passage Procedure

- (a) *Introduction and first reading.* Ordinances shall be introduced at a meeting of the Town Council. Ordinances shall be introduced in writing in the form in which they are to be finally passed. Ordinances shall have a title and an effective date. The titles of the ordinances shall be read at the meeting. After this first reading, such ordinances shall be published.
- (b) *Publication.* The publication shall include the title of the ordinance and time and place of the final passage hearing. The publication shall occur at least one (1) week before the final passage hearing.
- (c) *Amendment.* If an ordinance is amended in substance after publication, the ordinance shall be reintroduced as a first reading.
- (d) *Final passage hearing.* The final passage hearing shall be at a Town Council meeting. The title of such ordinance shall be read. After such reading, any interested person shall be given an opportunity to be heard. If requested by any person in attendance at such hearing, the ordinance shall be read in full. A public hearing on the ordinance shall be held, and after such hearing, the Town Council may pass, deny or amend such ordinance.

Section 7.03 Resolutions

Actions not required to be taken by ordinance may be taken by resolution. Such resolution may be adopted at the same meeting at which it is introduced and need not be published or posted prior to such meeting.

Section 7.04 Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Town Council may adopt emergency ordinances. Emergency ordinances may not: 1) levy taxes; 2) grant, renew or extend any municipal franchise; 3) set service or user charges for any municipal services; 4) authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter, if

PART I - CHARTER

applicable; or 5) amend the land use designation of a parcel or parcels or change the actual list of permitted, conditional, or prohibited uses.

- (a) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- (b) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, and shall be enacted by no less than three (3) members of the Town Council. After its adoption, the title of the ordinance shall be published and printed as prescribed for other ordinances.
- (c) *Repeal.* Every emergency ordinance, except emergency appropriation ordinances, shall automatically be repealed as of the sixty-first (61st) calendar day following its effective date. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 7.05 Authentication and Recording of Ordinances, Resolutions and Charter Amendments

- (a) *Authentication.* The Mayor and the Town Clerk shall authenticate by their signatures all ordinances and resolutions adopted by the Town Council. When the electors have approved Charter amendments, the Mayor and the Town Clerk shall authenticate such Charter amendments by their signatures.
- (b) *Recording.* The Town Clerk shall keep properly indexed records of the Charter and of all ordinances and resolutions passed by the Town Council.

Article VIII. Town Officers

Section 8.01 Town Manager

The Town Council shall hire an officer of the Town, who shall have the title of Town Manager, and who shall have the powers and perform the duties provided in this Charter. The Town Council may hire the Town Manager for an indefinite period and may remove him or her. Once hired, the Town Manager may reside outside the Town while in office only with the approval of the Town Council.

Section 8.02 Town Manager - Powers and Duties

The Town Manager shall be the chief executive officer and head of the administrative branch of the Town government. He or she shall be responsible to the Town Council for the proper administration of all affairs of the Town, and to that end he or she shall have the following powers and duties:

- (a) To appoint and remove the Town Clerk and directors of all Town departments, with the approval of the Town Council;
- (b) To hire and remove all other officers and employees of the Town, except as otherwise provided in this Charter;
- (c) To prepare the budget and the capital program annually, to submit them to the Town Council at least ninety (90) days before the end of the fiscal year (Sept. 30), and to be responsible for their administration after adoption;

PART I - CHARTER

- (d) To prepare a complete report on the finances and administrative activities of the Town for the preceding year and submit the report to the Town Council at the end of the fiscal year;
- (e) To keep the Town Council advised of the financial condition and future needs of the Town, and make such recommendations as may seem desirable and necessary;
- (f) To see that all laws, provisions of this Charter, and acts of the Town Council are faithfully executed;
- (g) To perform such other duties as may be provided in this Charter or required by the Town Council, not inconsistent with any provision of this Charter; and
- (h) To direct and supervise the administration of all departments and offices, but not including Town boards or committees unless directed by the Town Council.

Section 8.03 Acting Town Manager

- (a) *Temporary absence or disability.* The Town Manager may designate, by letter filed with the Town Clerk, a qualified individual to perform his or her duties during a temporary absence or disability. During such absence or disability, the Town Council may revoke such designation at any time and appoint another qualified individual to serve until the Town Manager returns. In the event of failure of the Town Manager to make such designation, the Town Council may, by resolution, appoint a qualified individual to perform the duties of the Town Manager until the Town Manager returns.
- (b) *Permanent absence.* In the event of the termination, resignation, or other permanent absence of the Town Manager, the Town Council may, by resolution, appoint a qualified individual to perform the duties of the Town Manager until a replacement is hired.

Section 8.04 Town Clerk

The Town Manager shall appoint an officer of the Town, with the approval of the Town Council, who shall have the title of Town Clerk. The Town Clerk shall be under the direction and supervision of the Town Manager, and shall receive a salary established by the Town Manager. The Town Clerk shall serve for an indefinite term and may be terminated by the Town Manager, with the approval of the Town Council. The Town Clerk shall: 1) give notice of all the meetings of the Town Council and keep the journal of the proceedings; 2) be the custodian of the Town's seal; 3) authenticate by signature and record in full, in a book kept solely for that purpose, all ordinances and resolutions; 4) have custody of all the general records, books, and documents of the Town; 5) perform the duties of registration officer; 6) monitor and store the minutes of all Town committee and board meetings; 7) post all minutes on the Town website; and 8) perform any other duties required by this Charter or by ordinance, or that may be assigned by the Town Manager.

Section 8.05 Department Directors

The director of each department shall be an officer of the Town who has supervision and control of that department. One individual may be the director of more than one department. The Town Manager may be the director of one or more departments.

Article IX. Miscellaneous Town Positions

Section 9.01 Town Auditor

The Town Council shall hire an independent contractor who shall have the title of Town Auditor and be under the direction and control of the Town Council. The Town Auditor shall: 1) audit all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the Town; and 2) inspect and audit any accounts or records which may be maintained in any office, department, or agency of the Town.

PART I - CHARTER

Section 9.02 Town Attorney

The Town Council shall appoint a Town Attorney, who shall be a lawyer with at least five (5) years of experience and who:

- (a) shall act as the attorney and counselor for the municipality and all of its present and former elected officials and officers in matters relating to their official duties;
- (b) shall prepare all contracts, bonds, and other instruments;
- (c) when required to do so by resolution of the Town Council, shall prosecute and/or defend any complaints, suits and controversies in which the Town is a party;
- (d) shall furnish the Town Council, the Town Manager, the head of any department, or any officer, board, or committee, an opinion on any question of law relating to their respective powers and duties;
- (e) shall act as parliamentarian to the Town Council; and
- (f) shall perform such other professional duties as may be required by ordinance or resolution of the Town Council.

Article X. Voting and Elections

Section 10.01 In General

The Town Council shall adopt the Florida Election Code and, by ordinance, make all other necessary and desirable municipal election regulations not inconsistent with this Charter, for the conduct of municipal elections, and for the prevention of fraud therein.

- (a) *Electors.* Any person, who is a resident of the Town, shall be entitled to registration as a prerequisite to voting in the Town. All candidates for the Town Council and Mayor shall be voted upon by the electors of the Town at large. For the purpose of qualifying as Town electors, persons residing within any area at the time of the annexation of that area to the Town shall be deemed to have been residents of the Town for such period of time as such persons have been residents of such annexed area of the Town.
- (b) *Nonpartisan elections.* All elections of the Town Council and Mayor shall be conducted on a nonpartisan basis. The ballot shall not show the party designation of the candidate.

Section 10.02 Nominations

- (a) Candidates for the office of Town Council and Mayor shall be nominated by the petition of not less than twenty-five (25) qualified electors. Electors may sign more than one candidate's petition. The signatures of the electors on the petition shall be executed in ink. Each signer shall state their residence address next to their signature. The signed petition shall be filed with the Town Clerk no earlier than ninety (90) days and not later than sixty (60) days before the election to vote upon the nominees.
- (b) No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination, a sworn statement of residency, and a qualifying fee of twenty-five dollars (\$25.00).
- (c) Within five (5) working days after the filing of a nomination petition, the Town Clerk shall notify the candidate and the person who filed the petition whether or not the nomination petition satisfies the requirements prescribed by this Charter. If the petition is found insufficient, the Town Clerk shall return it forthwith to the person who filed it with a statement certifying why it is insufficient. Within the

PART I - CHARTER

regular time for filing a petition, a replacement petition may be filed for the same candidate. The Town Clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

(d) Candidates shall not be nominated to succeed any particular Town Council member.

Section 10.03 Election of Town Council and Mayor

Each qualified elector shall be entitled to one (1) vote for each office to be filled at any election. The Town shall designate by resolution regular municipal election dates.

Section 10.04 Persons Elected at All Regular Municipal Elections

At all regular municipal elections held in even numbered years, two (2) Town Council members and a Mayor shall be elected. At elections held in odd numbered years, three (3) Town Council members shall be elected. All candidates elected to office shall be elected for a term of two (2) years. At elections held in even numbered years the two (2) Town Council candidates and the candidate for mayor receiving the highest number of votes shall be elected; at elections held in odd numbered years the three (3) Town Council candidates receiving the highest number of votes shall be elected.

Section 10.05 Canvass of Returns and Certification of Election

Canvassing of returns and certification of the election shall be done in accordance with the Florida Election Code. A canvassing board shall consist of the Town Clerk and two incumbent Town Council members not running for re-election. The Town Manager may serve as a member of the canvassing board if needed.

Section 10.06 Resolution of Tie Votes

In the event that, following any election, one (1) or more offices remain unfilled by reason of a tie vote among two (2) or more candidates eligible for such office or offices, such office or offices shall be filled by lot from among such candidates receiving the same number of votes.

- (a) Such determination by lot shall be made under the direction of the Town Council, at such place within the Town and at such time not later than fourteen (14) days after such election as may be fixed by the Town Council.
- (b) Notice of such time and place shall be given to the tied candidates, and the candidates shall have the right to be present at such determination.
- (c) When there is a tie in an election for offices having terms or unexpired terms of different lengths, the office successfully filled by lot shall be the office with the longer term.

Section 10.07 Insufficient Number of Elected Candidates

In the event a lesser number of candidates qualify for or are elected at any election than there are offices to be filled, one or more incumbent Town Council members or the Mayor whose term or terms would otherwise expire shall hold over and remain in office. A determination as to which of the incumbent Town Council member(s) are to hold over shall be made by unanimous agreement of such incumbent Town Council members at a Town Council meeting; or, in the absence of such agreement, by lot in accordance with the procedure described in Section 10.06.

Section 10.08 Commencement of Term

The term of the Mayor and each Town Council member elected at a regular municipal election shall commence at the first regular meeting of the Town Council following the election.

Section 10.09 Filling of Vacancies at Regular Municipal Elections

If at any regular municipal election vacancies are to be filled in the Town Council, such vacancies shall be filled in like manner as is provided in this Charter with respect to the election of Town Council members at regular municipal elections.

Article XI. Fiscal Management

Section 11.01 Town Budget

The budget shall provide a complete financial plan for all Town funds and activities for the ensuing fiscal year, and shall be in such form as the Town Manager deems desirable or the Town Council may require for effective management and understanding of the relationship between the budget and the Town's strategic goals.

Section 11.02 Preparation and Submission of Town Budget

Each year the Town Manager shall prepare a budget and submit the budget to the Town Council for approval at least ninety (90) days before the beginning of the budget year.

Section 11.03 Final Adoption of Town Budget and Effect of Failure to Adopt

The budget shall be finally adopted not later than the first day of the fiscal year. Should the Town Council take no final action on or before such day, the budget, as submitted and revised, shall be deemed to have been finally adopted by the Town Council.

Section 11.04 Capital Program

The Town Manager shall prepare and submit to the Town Council a five year capital program at least three (3) months prior to the final date for submission of the budget to the Town Council. The capital program shall include:

- (a) A clear, general summary of its contents;
- (b) A list of capital improvements proposed for the next five (5) years with appropriate supporting information;
- (c) Cost estimates, method of financing, and recommended time schedules for each improvement; and
- (d) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

Section 11.05 Expenditure of Town Funds

No funds of the Town shall be expended except pursuant to duly approved appropriations.

Section 11.06 Supplemental Appropriations

If during the fiscal year the Town Manager finds there are revenues available for appropriation in excess of those estimated in the budget, the Town Council by resolution may make supplemental appropriations for the year up to the amount of such excess.

Section 11.07 Emergency Appropriations

To meet a public emergency affecting life, health, property or the public peace, the Town Council may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with the provisions of Section 7.04 of this Charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the Town Council may by such emergency ordinance authorize the issuance of emergency notes in such amount as the Town Council shall determine to be appropriate. The emergency notes may be renewed from time to time, but the emergency notes and any renewals thereof shall be paid on or before the last day of the following fiscal year.

Section 11.08 Insufficient Revenues to Meet Appropriations

If at any time during the fiscal year it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, the Town Manager shall report to the Town Council without delay, indicating: 1) the estimated amount of the deficit; 2) any remedial action taken by the Town Manager; and/or 3) any recommendations as to any other steps to be taken. The Town Council shall then take such further action as it deems necessary to prevent or minimize any deficit.

Section 11.09 Transfer of Appropriations

At any time during the fiscal year the Town Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Town Manager, the Town Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

Section 11.10 Limitations on Debt Service Appropriations

No appropriation for debt service may be reduced or transferred.

Section 11.11 Lapse of Appropriations

Every appropriation, except for capital expenditure appropriations, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. A capital expenditure appropriation shall continue in force until the purpose for which it was made has been accomplished or abandoned. The purpose of any capital expenditure appropriation shall be deemed abandoned if three (3) years pass without any disbursement from or encumbrance of the appropriation.

Section 11.12 Borrowing

The Town shall incur no non-emergency debt beyond twelve and one-half percent (12.5%) of the general operating budget unless the incurrence of such debt is approved by a majority vote of the residents.

Section 11.13 Independent Audit

The Town Council shall provide for an annual independent audit of all Town accounts and may provide more frequent audits. Audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Town government, its employees or officers. Residency, per se, shall not constitute a direct or indirect interest. A summary of the results, including any deficiencies found, shall be made public.

PART I - CHARTER

Section 11.14 Issuance of Bonds

Subject to any restrictions and/or limitations of this Charter, the Town may issue general obligation bonds, revenue bonds, excise tax bonds, sales tax bonds, other bonds, certificates of indebtedness and other forms of indebtedness in accordance with the laws of Florida.

Article XII. Legal Limitations

Section 12.01 Claims Against the Town

All claims for damage or other claims of any nature, including without limitation claims arising out of tort, breach of contract or upon account of an act causing a wrongful death, against the Town must be presented in writing to the Mayor and the Town Attorney, if any, within ninety (90) days from the date of accrual of the claim, or else such claim shall be forever barred of collection.

Section 12.02 Suits Against the Town

All suits against the Town must be commenced within one (1) year after the claim which is the subject of the suit accrues, or else the same will be barred and cannot thereafter be commenced against the Town.

Section 12.03 Exemption of Town Property from Execution

All Town property shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against such property, nor shall any judgment against the Town be a charge or lien on its property or revenues, provided that nothing herein contained shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the Town in connection with any of the bonds or obligations of the Town.

Section 12.04 Zoning

Any rezoning of land for any use other than single-family residential must be approved by an affirmative vote of seventy percent (70%) of the members of the Town Council.

Article XIII. Historic Sites and Protected Areas

Section 13.01 Historic 1887 Windermere Schoolhouse.

The 1887 Schoolhouse, WPA privy and well shall remain at the historic site where they were originally built, on the block bounded by Sixth Avenue on the north, Seventh Avenue on the south, Forest Street on the west, and Main Street on the east.

Article XIV. General Provisions

Section 14.01 Oath of Office

Every officer of the Town, before commencing the duties of office, shall take and subscribe to the following oath or affirmation, to be filed and kept by the Town Clerk:

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and the State of Florida, that I will in all respects, observe the provisions of this Charter and the

PART I - CHARTER

ordinances of the Town of Windermere and will faithfully discharge the duties of the office of [insert office here].”

Section 14.02 Notice and Publication

As required by this Charter:

- (a) Notice to an individual can be accomplished by letter (delivered by hand, U.S. Mail or delivery service) or by electronic mail.
- (b) Notice to the public can be accomplished by posting at the primary office for Town business and on the Town’s website.
- (c) Publication can be accomplished by printing in one (1) or more newspapers of general circulation in the Town, or if there be none, in Orange County, Florida.

Section 14.03 Variations of Pronouns

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Charter.

Section 14.04 Precedence Over Code of Ordinances

In case of a conflict between the provisions of this Charter and the provisions of the Code of Ordinances, the Charter terms shall control.

Section 14.05 Effective Date

This Charter shall take effect thirty (30) days from date of ratification of this Charter by majority vote of the electors, voting in the election called for the purpose of ratifying this Charter.

Section 14.06 Severability

If any article, section or part of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not invalidate any other provision(s) of this Charter.

Section 14.07 Procedure to Amend

- (a) At least every ten (10) years, the Town Council may appoint and fund a Charter Review Committee. If the Charter Review Committee proposes amendments, such amendments shall be presented to the Town Council.
- (b) The committee shall consist of the same number of members as there are members of the Town Council, all of whom must be residents of the Town. Each member of the Town Council shall make one (1) appointment. The committee shall commence its proceedings within forty-five (45) calendar days after appointment by the Town Council.
- (c) If the committee determines that amendments or a revision is needed, it shall establish procedures and rules to allow for public meetings in order to allow input from the Town Council and electors of the Town. The committee shall submit their report to the Town Council no later than one hundred and eighty (180) days following its appointment, unless otherwise extended by further resolutions of the Town Council.
- (d) The Town Council shall review the proposed amendments and may propose or consider additional or alternate amendments. The Town Council shall vote on all proposed amendments. Any proposed

PART I - CHARTER

amendments approved by the Town Council shall be submitted to the electors of the Town for approval by referendum.

- (e) If conflicting amendments are adopted by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Charter Comparison Tables

2007 Charter Sections Traced to 2017 Charter

Deletion Notes: ¹Deleted as unnecessary & superfluous
²Deleted as unnecessary because the subject is covered by the Florida Statutes
³Deleted as unnecessary in light of the powers of the Town and Town Council in Article IV and Section 5.09(a)
⁴Deleted as unnecessary because these sections were reserved and empty in the 2007 Charter

<u>2007 Charter</u>	<u>2017 Charter</u>	<u>2007 Charter</u>	<u>2017 Charter</u>	<u>2007 Charter</u>	<u>2017 Charter</u>
Preamble	Preamble	Sec. 19	Section 5.07	Sec. 37	Section 10.04
Sec. 1	Article I	Sec. 20	Section 7.01 Section 7.03	Sec. 38	Section 10.08
Sec. 2	Article II	Sec. 21	Section 7.02	Sec. 39	Section 10.09
Sec. 3	Section 3.01 Section 3.02 Section 3.03	Sec. 22	Section 8.01	Sec. 40	Section 10.05
Sec. 4	Deleted ^{1,2}	Sec. 23	Section 8.02	Sec. 41	Deleted ²
Sec. 5	Article IV	Sec. 24	Section 5.10	Sec. 42	Section 7.04
Sec. 6	Deleted ^{1,2}	Sec. 25	Section 8.03	Sec. 43	Section 7.05
Sec. 7	Deleted ^{1,2}	Sec. 26	Section 3.02(a)	Secs. 44-45	Deleted ²
Secs. 8-10	Deleted ¹	Sec. 27	Section 8.02 Section 8.05	Sec. 46	Section 11.06 Section 11.08
Sec. 11	Section 5.01	Sec. 28	Deleted ¹	Sec. 47	Deleted ^{2,3}
Sec. 12	Section 5.02	Sec. 29	Section 8.04	Sec. 48	Section 11.13
Sec. 13	Section 5.03 Section 5.04 Section 6.05 Section 6.06	Sec. 30	Section 9.01	Sec. 49	Section 11.12
Sec. 14	Section 5.05 Section 5.06 Section 5.07	Sec. 31	Section 11.05	Sec. 50	Section 10.06 Section 10.07
Sec. 15	Section 5.08 Section 6.01	Secs. 32-33	Deleted ¹	Secs. 51-53	Deleted ²
Sec. 16	Section 6.01 Section 6.03	Sec. 34	Section 10.01	Sec. 54	Deleted ^{2,3}
Sec. 17	Section 5.09(a)	Sec. 35	Section 10.02	Secs. 55-58	Deleted ²
Sec. 18	Section 5.04	Sec. 36	Section 10.03	Sec. 59	Section 12.04 with Deletions ²

PART I - CHARTER

2007 Charter Sections Traced to 2017 Charter

Deletion Notes: ¹Deleted as unnecessary & superfluous
²Deleted as unnecessary because the subject is covered by the Florida Statutes
³Deleted as unnecessary in light of the powers of the Town and Town Council in Article IV and Section 5.09(a)
⁴Deleted as unnecessary because these sections were reserved and empty in the 2007 Charter

<u>2007 Charter</u>	<u>2017 Charter</u>	<u>2007 Charter</u>	<u>2017 Charter</u>	<u>2007 Charter</u>	<u>2017 Charter</u>
Sec. 60	Deleted ^{2,3}	Sec. 90	Section 11.07	Sec. 154	Deleted ²
Secs. 61-65	Deleted ⁴	Sec. 91	Section 11.08	Sec. 155	Section 5.09(b)
Sec. 66	Section 9.02	Sec. 92	Section 11.09	Sec. 156	Section 5.09(c)
Sec. 67	Section 14.07	Sec.93	Section 11.10	Sec. 157	Section 14.01
Sec. 68	Deleted ³	Sec. 94	Section 11.11	Sec. 158	Section 12.01
Secs. 69-71	Deleted ⁴	Secs. 95-96	Deleted ¹	Sec. 159	Section 12.02
Sec. 72	Section 11.01 Section 11.02	Secs. 97-100	Deleted ²	Sec. 160	Section 12.03
Secs. 73-77	Deleted ²	Secs. 101-110	Deleted ⁴	Sec. 161	Section 14.02
Sec. 78	Deleted ¹	Secs. 111-146	Deleted ²	Secs. 162-163	Deleted ^{1,2}
Sec. 79	Section 11.03	Secs. 132-146	Deleted ²	Sec. 164	Section 14.06
Secs. 80-82	Deleted ²	Secs. 147-148	Deleted ^{2,3}	Sec. 165	Deleted ²
Sec. 83	Section 11.01	Secs. 149-150	Deleted ²	Sec. 166	Section 14.03
Secs. 84-87	Deleted ¹	Sec. 151	Section 5.02	Sec. 167	Section 14.04
Sec. 88	Section 11.04	Sec. 152	Deleted ²	Sec. 168	Section 14.05
Sec. 89	Section 11.06	Sec. 153	Section 5.03 Section 5.10(b) Section 6.04 Section 6.05 Section 8.01	Sec. 169	Section 13.01

PART I - CHARTER

Sources for 2017 Charter Sections from 2007 Charter

<u>2017 Charter</u>	<u>2007 Charter</u>	<u>2017 Charter</u>	<u>2007 Charter</u>	<u>2017 Charter</u>	<u>2007 Charter</u>
Preamble	Preamble	Section 7.01	Sec. 20	Section 11.03	Sec. 79
Article I	Sec. 1	Section 7.02	Sec. 21	Section 11.04	Sec. 88
Article II	Sec. 2	Section 7.03	Sec. 20	Section 11.05	Sec. 31
Article III	New Heading	Section 7.04	Sec. 42	Section 11.06	Secs. 46, 89
Section 3.01	Sec. 3	Section 7.05	Sec. 43	Section 11.07	Sec. 90
Section 3.02	Secs. 3, 26	Article VIII	New Heading	Section 11.08	Secs. 46, 91
Section 3.03	Sec. 3	Section 8.01	Secs. 22, 153	Section 11.09	Sec. 92
Article IV	Sec. 5	Section 8.02	Secs. 23, 27	Section 11.10	Sec. 93
Article V	New Heading	Section 8.03	Sec. 25	Section 11.11	Sec. 94
Section 5.01	Sec. 11	Section 8.04	Sec. 29	Section 11.12	Sec. 49
Section 5.02	Secs. 12, 151	Section 8.05	Sec. 27	Section 11.13	Sec. 48
Section 5.03	Secs. 13, 153	Article IX	New Heading	Section 11.14	New Section
Section 5.04	Secs. 13, 18	Section 9.01	Sec. 30	Article XII	New Heading
Section 5.05	Sec. 14	Section 9.02	Sec. 66	Section 12.01	Sec. 158
Section 5.06	Sec. 14	Article X	New Heading	Section 12.02	Sec. 159
Section 5.07	Secs. 14, 19	Section 10.01	Sec. 34	Section 12.03	Sec. 160
Section 5.08	Sec. 15	Section 10.02	Sec. 35	Section 12.04	Sec. 59
Section 5.09	Secs. 17, 155, 156	Section 10.03	Sec. 36	Article XIII	New Heading
Section 5.10	Secs. 24, 153	Section 10.04	Sec. 37	Section 13.01	Sec. 169
Article VI	New Heading	Section 10.05	Sec. 40	Article XIV	New Heading
Section 6.01	Secs. 15, 16	Section 10.06	Sec. 50	Section 14.01	Sec. 157
Section 6.02	Secs. 12, 151	Section 10.07	Sec. 50	Section 14.02	Sec. 161
Section 6.03	Sec. 16	Section 10.08	Sec. 38	Section 14.03	Sec. 166
Section 6.04	Sec. 153	Section 10.09	Sec. 39	Section 14.04	Sec. 167
Section 6.05	Secs. 13, 153	Article XI	New Heading	Section 14.05	Sec. 168
Section 6.06	Sec. 13	Section 11.01	Secs. 72, 83	Section 14.06	Sec. 164
Article VII	New Heading	Section 11.02	Sec. 72	Section 14.07	Sec. 67