

Sec. 1. - The Town Council.

There shall be a Town Council of five members, who shall be residents and electors of the town, elected by the qualified voters of the Town.

All legislative powers of the Town shall be vested in the Town Council, except as otherwise provided by law or this Charter, and the Town Council shall provide for the exercise thereof and for performance of all duties and obligations imposed on the Town by law.

The Town Council shall consist of five members, to be titled "councilors," who shall hold five seats numbered consecutively 1 through 5 and shall be elected for a term of four years. Councilors shall hold their seats for the term of office for which they are elected. Elections shall be conducted the first Tuesday following the first Monday in November of each even-numbered year.

Elections for councilor seats 1, 2, and 3 shall be held in numbered years not evenly divided by 4 and for Seats 4 and 5 in numbered years evenly divided by 4. Council seats will be filled by the three candidates or the two candidates, as applicable, receiving the highest number of votes. If the qualifying candidates are not opposed, the seats shall be assigned by the Clerk in alphabetical order. If the qualified candidates are fewer than the open seats, the Council shall deem vacant the seats remaining unfilled after the election and proceed accordingly.

All persons running for the office of councilor shall be at least 21 years of age, a registered voter, and a resident of the Town for at least one year prior to the first day of the qualifying period. To qualify, each candidate must file with the Clerk a petition signed by no fewer than 25 Town electors nominating the candidate for Town Council. The petition must be filed no earlier than noon on the 92nd day, and no later than noon on the 81st day, before the date of the election for which qualifying is sought. Elector signatures on the petition must be verified by the supervisor of elections. The candidate shall also provide a statement that, if elected, he/she will serve, and if not, the Town Council Clerk shall omit his/her name from the ballot.

The newly elected Council members shall take their oath and assume office at the first regular Council meeting after certification of the ballot.

Sec. 2. - Disqualification for any Town Office.

Any person convicted of a felony shall be ineligible for employment by the Town and disqualified from seeking election to an office or appointment to any board, ~~commission~~ Council, committee or agency in the Town. No more than one family member may hold a seat on the Council. Therefore, a councilor's family members are disqualified from seeking election to the Council unless the family members' terms will not be concurrent. A family member includes parents, siblings, children or spouses.

Sec. 3. - Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) — **Vacancies.** A Council member's seat shall become vacant upon death, resignation, or removal from office in any manner authorized by law or forfeiture of the office, such forfeiture to be declared by the remaining members of the Council.
- (b) — **Forfeiture of Office.** The Mayor or a Council member shall forfeit office if the member: (i) Fails to meet residency requirements; (ii) Is convicted of a felony or a crime involving moral turpitude; (iii) Violates the express provisions of the charter; (iv) Fails to attend three consecutive regularly scheduled Council meetings without Council approval or (v) Brings an action against the Town, its elected officials, executive officers, or employees for damages in tort or for civil-rights violation. The Town Council, by majority vote, shall be the judge of the grounds for forfeiture of a Council seat and may declare a seat vacant where the member has failed to meet the requirements or has violated any of the provisions stated above.
- (c) — **Filling Vacancies.** Whenever a vacancy shall occur on the Town Council more than 180 days preceding the next general election, it shall be the duty of the Town Council to order an election to fill the vacancy, and until such election is held the Town Council shall fill such vacancy by appointment. The newly elected member shall hold the seat for the remainder of the original term.

Should a vacancy occur within 180 days of the next general election, the Mayor shall appoint an elector of the town to fill the vacancy. The appointment is subject to the approval by a majority of the membership of the Town Council. The appointee approved in such a manner shall serve until an elected successor takes office.

- (d) — **Holding Office.** Except where expressly authorized by law, no Council member shall hold any other elected public office during the term for which the member is elected. No Council member shall hold any other Town office, other than Mayor, or town employment during the term for which they are elected.
- (e) — **Prohibitions.** Except for the purpose of enquiries and investigations, Council members shall deal with the Town officers and employees solely through the Mayor-Town Manager and shall not give orders to a Town officer or employee either publicly or privately. Nothing prohibits individual members of the Council from asking questions and seeking information to assist in the formulation of sound policies to be considered by Council and otherwise to enable the performance of councilor duties. No former member of Town Council shall hold any compensated appointive office or employment with the Town until one year after the expiration of the term for which the member was elected.

Unless approved by the Council, any Town official or employee, acting in his/her official capacity, is forbidden from causing the Town to do business with a firm in which he/she has a material interest, and the Town shall make no transactions with a firm in which a Town official or employee's spouse, parent, sibling or child has a material interest. Nor shall an official or employee acting in a private capacity transact business with the Town. The Town official must declare the interest and recuse himself/herself from any vote on the matter. A Town official or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and subject to forfeiture of his/her office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the Town shall render the contract or sale voidable by the Mayor or the Town Council.

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- (f) **Powers and Duties of the Town Council Generally.** The Town Council shall have all the powers now or hereafter vested by the general municipal laws in the mayor and town council of Florida municipalities incorporated under the general laws, and also all powers now or hereafter vested by special act in the Town of Howey-in-the-Hills, Florida, and also all said additional powers, express, implied, or incidental, as shall be necessary to carry out the purpose of this Charter and the protection of the general health, safety and welfare of the inhabitants of the Town of Howey-in-the-Hills.

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Sec. 4. - Procedure.

- (a) — **Meetings.** The Council shall meet regularly on the second and fourth Monday of each month at such times and places as the Council may prescribe. By ordinance, the Council may change from time to time the days of the month when regular meetings are to be held. Special scheduled meetings shall be held on the call of either the Town Manager-Mayor or a majority of the Council, when requested in writing for such date, time, place and purpose as shall be specified in the written request. No other business than that specified in the call shall be transacted, except that by unanimous vote of all Councilors present, with 72-hour notice (except in cases of extreme emergency).
- (b) — **Rules of Order.** The Council shall determine its own rules and order of business. Roberts Rule of Order may be applicable.
- (c) — **Voting.** Voting on ordinances and resolutions, the execution of contracts, and all financial matters shall be by roll call and shall be recorded in the minutes. A majority of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present. Except as provided by law, a Council member absent from the meeting may enter into discussion by telephone or video conference but may not vote unless present. However, if a quorum is physically present, the participation and vote of an absent member is permissible when

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such absence is due to extraordinary circumstances such as illness. Such a circumstance is a determination that must be made in the good judgement of the Council.

- (d) — **Compensation.** The Council shall determine the compensation of the Mayor and Council members by ordinance; an ordinance increasing such compensation shall become effective no earlier than October 1st of the next budget year. The Mayor and Council members shall receive reimbursement of their actual and necessary expenses incurred in the performance of their duties of office.

Sec. 5. - Office of the Mayor.

- (a) — ~~Mayor and Chief Executive Officer. The Mayor shall be the Chief Executive Officer of the Town.~~ The Mayor shall be appointed by majority vote of the members of the Town Council at the next regular scheduled meeting following the general election and certification of the ballot, and immediately following the swearing in of any new Council members. ~~The Mayor shall be responsible to the electorate for the administration of all Town affairs under this Charter, the ordinances of the Town, and applicable law.~~
- (b) — **Qualification of Mayor.** The Mayor shall be an elector of the Town and shall have been a member of the Town Council for a period of no less than one year prior to appointment to the office, unless approved otherwise by a vote of four-fifths of its members. If the office of Mayor becomes vacant or is forfeited, the Town Council shall ~~select~~ appoint a new Mayor to serve the unexpired portion of the then current term.
- (c) — **Term of the Mayor.** The Mayor shall be appointed for a two year term and may be ~~reelected~~ reappointed subsequently.
- (d) — **Removal of the Mayor.** The Town Council may, by supermajority vote, remove the Mayor at any regular or special Council meeting with or without cause. Upon removal of the Mayor the Town Council shall appoint another member of the Town Council to serve as Mayor for the unexpired portion of the then current term.
- (e) — **Powers and Duties of the Mayor.** ~~of the Mayor. The Mayor shall have the following powers and duties:~~

The Mayor shall preside at all meetings of the Town Council and perform such other duties consistent with his or her office as may be prescribed by the Council. The Mayor shall have a voice and vote in the proceedings of the Council but no veto power. He or she may use the title of "Mayor" in any case in which the execution of legal instruments of writing or in other situations as the general laws of the State of Florida require. The Mayor shall be recognized as the official head of the Town by the courts for purposes of serving civil process; by other governmental bodies in the exercise of military law, and for all ceremonial purposes. He or she may take command of the police and govern the Town by proclamation during times of grave public emergency, in the absence of the Town Manager until such time as the Town Council has had the opportunity to convene an emergency session and appoint an interim Town Manager for the duration of the emergency. The Mayor shall have no powers other than those conferred by this Charter.

- (f) **Mayor Pro Tempore; vacancies in office of Mayor.** The Town Council shall appoint from among its members a Mayor Pro Tempore. Appointment of the Mayor Pro Tempore shall be done at the Town Council's next regular scheduled meeting following a general election and certification of the ballot, and immediately following the swearing in of any new Council members and the appointment of the Mayor. The Mayor Pro Tempore shall preside at meetings of the Town Council in the absence or temporary disability of the Mayor and shall have no administrative duties except as required to carry out the responsibilities therein. In the event that the Mayor dies, resigns, becomes permanently disabled, ceases to be qualified, or is removed from office, the Mayor Pro Tempore shall become interim Mayor with the full powers and duties of the Mayor as provided by this Charter and other law until the Town Council appoints a new Mayor.

Sec. 6. — Borrowing.

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The Town shall have the power to borrow for a term of any length not to exceed 30 years. Except in an emergency declared by the approving vote of no fewer than four-fifths of the members of Town Council, no borrowing may cause the aggregate principal amount of outstanding Town debt to exceed at any time an amount equal to 3% of the assessed valuation of the real and personal property within the corporate limits of the Town unless approved by a majority of the Town electors voting in a referendum on the question.

Sec. 76. - Financial Procedures.

- (a) **Fiscal year.** The fiscal year of the Town shall begin on October 1 of each year and end on September 30 of the following year.
- (b) **Budget.** The budget shall be adopted by resolution and shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or the Charter, shall be in such a form as the Town Clerk/Manager or Finance Director/Finance Director deems appropriate or the Mayor/state of Florida may require. In organizing the budget, the Town Clerk/Manager or Finance Director shall receive from each department their budget request by July 1st, with the first budget meeting being held within 15 days.

The budget shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures for the preceding fiscal year.
- (c) **Supplemental appropriations.** If, during the fiscal year, the Town Clerk/Manager or Finance Director/Finance Director certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.
- (d) **Reduction of appropriations.** If at any time during the fiscal year it appears probable to the Town Clerk/Manager that the revenues available will be insufficient to meet the amount appropriated, the Town Clerk/Finance Manager or Finance Director shall report to the Mayor and/or Council immediately, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may, by resolution, reduce one or more appropriations.
- (e) **Transfer of Appropriations.** Upon written request by the Town Clerk/Finance Director/Manager or Finance Director or by action of the Town Council, the Town Council may, by resolution transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency or to another department, office or agency.

Sec. 8. - Administrative.

- (a) **Town Manager.** The Town Manager shall be chief executive and administrative officer of the Town. The Town Council shall act administratively by and through the Town manager. The Town manager shall subsequent to his appointment become a resident of Lake County, Florida. Preference in the matter of the appointment to said office shall be given to a person competent by experience or training.
- (b) **Appointment; Qualification; Compensation.** The Town Council by a majority vote shall appoint a Town Manager with appropriate education, credentials and experience for an indefinite term and fix the manager's compensation.

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(c) Removal. If the Town Manager declines to resign at the request of the Town Council, the town council may remove the town manager by a majority vote of all the councilmembers and, upon demand by the manager, a public hearing shall be held prior to a vote to remove the manager.

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(d) Powers and duties of the Town Manager. The Town manager shall, subject to the control of the Town Council, have entire charge of the Town's business, except as otherwise provided in this Charter. His authority shall include:

- i. Employing and discharging all officials, employees and labor, except the Town Council and Town attorney.
- ii. Managing and controlling all departments of the Town's business.
- iii. Managing and controlling all materials, equipment and supplies for the Town. The Town Manager shall not dispose of property belonging to the Town, except per the guidelines of Florida Statute or on authority of the Town Council.
- iv. Caring for, repairing and improving the Town's property.
- v. Collecting and disbursing Town money, subject to the restrictions of this Charter.
- vi. Keep an accurate account of all monies received and disbursed, and prepare on a monthly basis a financial report detailing all receipts and disbursements. The report shall be submitted to the Town Council at its next regularly scheduled meeting following the month for which the report has been prepared.
- vii. Prepare the budget annually and submit it to the Town Council and be responsible for its administration after adoption, subject to guidelines established by the Mayor or Town Council.
- viii. Seeing that the laws and ordinances are enforced.
- ix. Performing such other duties as shall be consistent with his office and as shall be imposed upon him by the town council.

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(a) Attendance at Council meetings; recommendations to Council. The Town manager shall attend the meetings of the Town Council, keep the Council fully advised of the affairs and needs of the Town and recommend to the Council for adoption such measures as he may deem necessary or expedient in the interests of the Town.

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(b) Vacancies in office. In the event that by reason of death, sickness, resignation, absence or discharge of the Town manager the office of Town manager shall be temporarily vacant, the town council may appoint a vice-manager to act pending the filling of the vacancy. Such vice-manager shall have temporarily the powers hereby vested in a Town manager. No such vacancy shall be allowed to continue for longer than three (3) months.

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Authority of Council over the Town Manager. In matters within his authority, as fixed by this Charter, the Town manager shall be subject to the control of the town council acting as a board in meeting assembled, but no Counciler shall otherwise attempt to dictate to or to interfere with the Town manager or give orders to any officials or employees or undertake in any manner to direct the Town's affairs, and, if he shall do so, he shall be guilty of a misdemeanor and, in addition, shall be subject to removal by the town council.

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Each department and office under the direction and supervision of the Mayor-Town Manager shall be administered by an executive officer appointed by the Mayor, with the approval of the Council, and subject to the direction and supervision of the Mayor. Executive Officers of the Town shall include Town Clerk, Finance Director, Director of Public Works and Chief of Police. The Town

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Council may provide for other executive officers by ordinance. ~~Should the Council employ a Finance Director separate from the Clerk, then the duties set out below in (b)(vi) to (ix) and (x) will become the responsibility of the Finance Director.~~

~~(a) **Temporary Absence.** The Mayor shall appoint a temporary replacement to exercise the powers and perform the duties of any Town executive officer during a temporary absence or disability. During such absence or disability, the Mayor with the approval of Council may revoke such designation at any time and appoint another individual to serve until the executive officer returns to active employment.~~

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~~(a) (b) **Town Clerk/Finance Director.** The Town Clerk/Finance Director shall be responsible to the Mayor and Council/Town Manager for the proper administration of the Town as stated by the Town Council and shall be required to:~~

~~(i) Attend all Council meetings and shall have the right to take part in discussion but may not vote.~~

~~(ii) See that all laws, provisions of this Charter, and acts of the Council are faithfully executed.~~

~~(iii) Be the Elections Qualifying Officer for the Town. The Town Council shall provide polling places and prescribe the manner of holding all elections.~~

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~~(iv) Be the custodian of the Town seal.~~

~~(v) Be the custodian of records for the Town.~~

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~~(vi) Keep an accurate account of all monies received and disbursed; and prepare on a monthly basis a financial report detailing all receipts and disbursements. The report shall be submitted to the Town Council at its next regularly scheduled meeting following the month for which the report has been prepared.~~

~~(vii) Keep the financial records of the Town in a manner recommended by the Town accountant and approved by the Town Council~~

~~(viii) Prepare the budget annually and, upon its approval by the Mayor, submit it to the Town Council and be responsible for its administration after adoption, subject to guidelines established by the Mayor or Town Council.~~

~~(ix) Keep the Mayor and Council fully advised as to the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as may be deemed appropriate or necessary.~~

~~(vi)* Perform such other duties as are specified in this Charter, or by the Mayor, or Council/Town Manager, or in the Policy and Procedure manual. Appointment of Town clerk and collector. The duties of the Town clerk and collector of the Town shall be performed by a person appointed by the Town manager.~~

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(c) **Public Works Director.** The Public Works Director shall be responsible for the management and operation of the Public Works Department as set forth by the policy and procedure manual. The duties of the Public Works Director shall include but are not limited to construction improvements and repair and maintenance of Town facilities (including roads, drainage, parks, playgrounds, water and wastewater systems, cemetery and other public facilities). The Public Works Director shall report directly to the ~~Mayor~~Town Manager.

(d) **Police Department.** The Town shall have a police department. One officer will have the title of Chief of Police. The Chief will report directly to the ~~Mayor~~Town Manager and shall be responsible for the administration of the Police Department as well as the conduct and performance of its officers and employees.

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- (e) **Requirement for a Town Attorney.** The Town Council shall contract with an attorney in good standing with The Florida Bar to provide legal services to the Town. The town attorney shall be a licensed, practicing attorney. The town attorney shall serve as legal advisor to the Town in all its legal matters. When such advice is required, the Mayer-Town Manager will make the request and the advice shall be submitted by the town attorney in writing to the Mayer and Town Manager and Town Council. All requests for legal advice or other contact with the attorney shall be approved by the Mayer-Town Manager or a majority of the Town Council. It shall be the town attorney's duty to prepare, draft and review ordinances, resolutions, contracts and agreements, legal papers pertaining to bond issues and other borrowing, and other matters for the municipal government.
- (f) **Requirement for a Town Auditor.** The Town Council shall provide for an independent annual audit of all Town accounts and may provide for such more frequent audits as it deems necessary. Audits shall be made by a certified public accounting firm with accountants who have no personal interest, direct or indirect, in the fiscal affairs of the Town government or any of its officers. The Town Council may designate an accounting firm as the Town Auditor without requiring competitive bids and for a period of one year or longer as the Town Council deems appropriate. The Town Council may designate the accounting firm to serve on a continuing-contract basis for a period not exceeding three years and which may be terminated at the pleasure of the majority of Town Council.