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***Editor's note**—Part I consists of the county charter. The charter was proposed by Ord. No. 86-22 on Sept. 22, 1986 and approved at referendum on Nov. 4, 1986. In the printing of this charter:

- (1) A capitalization style consistent with the Orange County Code has been used.
- (2) The treatment of numbers (i.e. words and figures) has been made consistent with the style of the Orange County Code.
- (3) The word "Section" has been abbreviated as "Sec." in catchlines.
- (4) Article numbers and titles have been set on the same line and a period inserted between the article number and article title.
- (5) Obvious spelling errors have been corrected.
- (6) Footnote state law references have been added.
- (7) All other changes are shown in brackets.

ORANGE COUNTY CODE

Article V. Planning and Zoning Commission and Board of Zoning Adjustment

- Sec. 501. Creation of Orange County Planning and Zoning Commission.
- Sec. 502. Creation of board of zoning adjustment.
- Sec. 503. Review of planning and zoning commission's and board of zoning adjustment's decisions.
- Sec. 504. [Reserved.]
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- Sec. 602. Procedure for initiative and referendum.
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- Sec. 712. Audits of county officers.

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ORANGE COUNTY CHARTER

PREAMBLE

The citizens of Orange County, joined together in the belief that governmental decisions affecting local interests should be made locally rather than by the state, and that county government should be reflective of the people of the county and should serve them in achieving a more responsive and efficient form of local government with improved cooperation between the county and the municipalities and other governmental units within the county; and, in order to empower the people of this county to make changes in their own government, do hereby avail themselves of the full home rule benefits afforded by the Florida Constitution to adopt a home rule charter, do ordain and establish this Home Rule Charter for Orange County, Florida.

ARTICLE I. POWERS OF GOVERNMENT

Sec. 101. Body corporate and politic.

Orange County shall be a body corporate and politic and, as such, shall have all rights and powers of local self-government which are now, or hereafter may be, provided by the U.S. Constitution and the Constitution and laws of Florida and this Charter.

State law reference—Powers of chartered counties, Fla. Const. art. VIII, § 1(g).

Sec. 102. Name and boundaries.

The corporate name shall be "Orange County," hereinafter referred to as the "county," and shall be so designated in all actions and proceedings touching its rights, powers, properties and duties. Its seat and boundaries shall be those presently designated by law.

State law references—Boundaries of Orange County, F.S. § 7.48. County seats, Fla. Const. art. VIII, § 1(k); F.S. ch. 138.

Sec. 103. General powers of the county.

Unless provided to the contrary in this Charter, Orange County shall have all powers of local

self-government not inconsistent with general law, or with special law approved by vote of the electors.

State law reference—Similar provisions, Fla. Const. art. VIII, § 1(g).

Sec. 104. Special powers of the county.

The county, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter heretofore granted by law to the board of county commissioners, (hereinafter "board") and shall have such additional county and municipal powers, as may be required to fulfill the intent of this Charter, including but not limited to, the creation and abolition of special municipal taxing units with independent budgets. Property situated within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property of residents not within municipal boundaries, nor shall property situated in the unincorporated area of the county be subject to taxation for services provided by the county exclusively for the benefit of the property of residents within municipal boundaries.

(Amended November 1992)

State law reference—Property situate within municipalities not to be subject to taxation for county services rendered exclusively for benefit of property or persons in unincorporated areas, Fla. Const. art. VIII, § 1(h).

Sec. 105. Transfer of powers.

The county shall have the power and authority, pursuant to the Constitution and laws of Florida, to assume and perform all functions and obligations now or hereinafter performed by any municipality, special district or agency, whenever such municipality, special district or agency shall request the performance or transfer of the function to the county.

State law reference—Transfer of powers, Fla. Const. art. VIII, § 4.

Sec. 106. Security of the citizens.

The Charter form of government protects and serves the citizens of the county. In order to secure to the citizens of the county protection against abuses and encroachments, the county

shall use its powers to secure for all citizens by ordinance or by civil or criminal action, whenever appropriate, the following:

- A. Just and equitable taxation.
- B. Proper use of public property.
- C. Full disclosure of public records and proceedings.
- D. Prevention of abuse of the environment.
- E. The right to be heard and provide public input.

(Amended November 2008)

Sec. 107. Casino gambling.

A. *Reservation of power by the electorate.* The citizens of Orange County reserve to themselves the power to approve or disapprove casino gambling of any nature within the boundaries of the county. Therefore, if and when casino gambling becomes lawful under the Constitution and laws of the State of Florida, no action may be taken by the board of county commissioners, by the governing body of any municipality, or by any elected or appointed official or employee of either the county or any municipality, the effect of which is to authorize, to approve, or in any manner to allow casino gambling to occur anywhere in the county unless and until casino gambling in the county is first authorized by an approving vote of a majority of the qualified electors residing in the county and voting on the question at referendum, and such referendum must be separate and apart from any statewide or multicounty referendum on the question.

B. *Definition.* For purposes of this section, "casino gambling" means playing or engaging in any game of skill or chance for money or any other thing of value, regardless of how such game is named, labeled, or otherwise characterized, which game of skill or chance, when played for money or other thing of value, was unlawful under the Constitution or laws of the State of Florida as of July 1, 1995.

C. *Referendum.* At any primary, special, or general election, the board of county commissioners may offer to the electorate, and upon a petition from the governing body of a municipality in

the county, the board shall offer as soon as practical to the electorate, the question of whether casino gambling shall be authorized in the county. Upon approval of the question at referendum, the county and any municipality may thereafter allow casino gambling to the extent lawful under the Constitution and laws of the State of Florida, and at the option of the board this section may then be deleted from this charter. If the question is disapproved at referendum, it may be offered to the electorate again from time to time, but in no case more frequently than once in any period of twenty-four (24) months.

D. *Enforcement.* The restrictions in this section may be enforced by the county, by any municipality in the county, or by any person substantially affected by any violation thereof.

E. *Municipal referenda not prohibited.* Nothing in this section prohibits any municipality in the county, whether by charter or municipal ordinance, from likewise requiring approval by its voters at referendum before casino gambling may be allowed within the boundaries of the municipality, but any such referendum requirement shall be in addition to, not in substitution of, the referendum approval required by subsection A. (Ord. No. 96-3, § 2, 3-12-96)

Sec. 108. Division of powers.

This Charter hereby establishes the separation between the legislative and executive functions of this government; the establishment and adoption of policy shall be the responsibility of the legislative branch, and the execution of that policy shall be the responsibility of the executive branch. (Amended November 1988; Ord. No. 96-3, § 2, 3-12-96)

Sec. 109. Construction.

The powers granted by this Charter shall be construed liberally in favor of the county government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government, as stated in this article. (Ord. No. 96-3, § 2, 3-12-96)

Sec. 110. Severability.

If any article, section, subsection, sentence, clause or provision of this Charter or the application thereof shall be held invalid for any reason, the remainder of the Charter and of any ordinances, regulations or resolutions made thereunder shall remain in full force and effect.

(Ord. No. 96-3, § 2, 3-12-96)

**ARTICLE II. LEGISLATIVE BRANCH:
BOARD OF COUNTY COMMISSIONERS**

Sec. 201. Board of county commissioners.

The legislative branch of Orange County shall be the board of county commissioners, composed of the county mayor and the county commissioners.

(Repealed and reserved November 1988; Amended November 2004)

Sec. 202. Commission districts.

There shall be six commission districts of contiguous territory as nearly equal in population as practicable. The districts shall be reconsidered after each decennial census and adjusted by the board after one or more public hearings.

(Amended November 1988; November 1992; November 2004)

State law reference—Commission districts, Fla. Const. art. VIII, § 1(e).

Sec. 203. Structure of board.

The number of commissioners shall be six, with each member elected from single member districts and a county mayor elected county-wide. Each commissioner shall be a registered voter of and resident of the particular district he or she represents at the time of election to office and throughout the term of office.

(Amended November 1988; November 1992; November 2004)

Sec. 204. Terms of county commissioners.

A. Commissioners shall be elected for terms of four years. Elections shall be staggered so that three commissioners will be elected every two years. The terms of office for the commissioners

shall commence either on the second Tuesday following the general election or, if not inconsistent with general law, on such later date as set by ordinance, but in no case later than the first Tuesday after the first Monday in January following the general election.

B. A county commissioner who has held the same commission district office for the preceding two full terms is prohibited from appearing on the ballot for re-election to that office.

(Amended November 1988; November 1992; November 1996; November 2004)

Sec. 205. Compensation.

Commissioners' salaries shall be uniform and shall be set by ordinance. The salary in effect at the beginning of a commissioner's term in office shall not be lowered during that commissioner's term.

(Amended November 1988; November 2004)

(Orange County Comptroller note: Ord. No. 96-40, § 3, 12-19-96; salary effective 10/01/01 = \$63,384.53/year)

Sec. 206. Vacancies; incapacity or absence due to military service.

A. *Vacancies.* Vacancies shall be defined and filled in accordance with state law. Any commissioner who changes residence from the district in which the commissioner was required to reside, shall be deemed to have vacated such office. Special elections shall be held when called by the board of county commissioners or required by law.

B. *Incapacity or absence due to military service.* If a commissioner becomes permanently incapacitated and unable to perform his or her duties, a successor shall be chosen in accordance with general law. If a commissioner becomes temporarily incapacitated, or if a commissioner is absent for a prolonged period due to military service, then to the extent not inconsistent with general law a temporary substitute shall be chosen to serve during the incapacity or absence, as follows:

1. The temporary substitute shall be chosen in the manner provided by ordinance enacted by the approving vote of no fewer

than a majority plus one of the board prior to the beginning of the incapacity or prolonged absence; or

2. Absent such an ordinance, the temporary substitute shall be the person designated by the incapacitated or absent commissioner, if competent when the designation is made; or
3. Absent such a designation, the temporary substitute shall be the person chosen by the approving vote of no fewer than a majority plus one of the remaining board members.

The absent or temporarily incapacitated commissioner shall continue to receive his or her compensation during the absence or temporary incapacity. Unless defined otherwise by ordinance, temporary incapacity means a situation or condition that renders a commissioner unable to perform his or her duties for a period of more than 90 consecutive days, but does not constitute a vacancy in the office. In no event shall any temporary substitute serve beyond the term of the commissioner he or she is replacing for longer than one year.

(Amended November 1988; November 2004)

State law references—Filling of vacancies, Fla. Const. art. IV, § 1; Fla. Const. art. VI, § 5; F.S. §§ 100.111, 114.04.

Sec. 207. Powers and duties.

The board shall have the power and duty to originate, terminate and regulate legislative and policy matters, including but not limited to:

1. Adopting or enacting, in accordance with the procedures provided by general law, ordinances and resolutions it deems necessary and proper for the good governance of the county;
2. Approving the annual operating and capital budgets and any long term capital or financial program;
3. Considering conducting continuing studies in the operation of county programs and services and take action on programs for improvement of the county and the welfare of its residents;

4. Adopting, and amending as necessary, a county administrative code to govern the operation of the county;
5. Adopting, pursuant to the provisions of this Charter, such ordinances of countywide force and effect as are necessary for the health, safety and welfare of the residents.

The commissioners shall only devote such time as is necessary to perform the legislative responsibilities of their office.

(Amended November 1988; November 2004)

Sec. 208. Organization.

The board shall annually elect from among its members a vice mayor. Except as provided otherwise in section 302, in the absence of the county mayor, the vice mayor shall serve as the official representative and ceremonial dignitary for the board; shall preside during the board of county commissioners' meetings and may execute documents approved by the board. The vice mayor shall be elected by majority vote during the month of December of each calendar year.

(Amended November 1988; November 1992; November 2004)

Sec. 209. Meetings.

A. Meetings of the board. The board shall meet regularly, at such times and places as the board may prescribe by rule. The board shall determine its own rules and order of business, including establishing rules to enable the board to conduct orderly and efficient meetings while preserving the opportunity for citizen input.

B. The right to be heard and the right to public input. Any citizen has the right to appear before the board on an agenda item for the presentation, adjustment or determination of an issue, matter or request within the county's authority and jurisdiction, so far as the orderly conduct of public business permits. Matters shall be reasonably scheduled for the convenience of the general public, and specific portions of each agenda shall provide for designated times so that the public may know when a matter has been scheduled. In addition, to encourage and ensure citizen participation in county government and to afford citi-

zens an opportunity to speak to the board, the board shall set aside at least fifteen (15) minutes at the beginning of each regular meeting of the board for citizens to speak to the board on any matter of public interest under the board's authority and jurisdiction regardless of whether the public issue is on the board's agenda. The provisions of this subsection, however, shall not be construed to supersede, supplement, or modify any citizen participation process established in state law for public hearings before the board, such as the procedures for quasi-judicial hearings. Nor shall the provisions of this subsection be used to avoid, supersede or modify the county's procurement and lobbying ordinances, including, but not limited to, the "protest process" and the "black-out period."

C. Special meetings. Special meetings may be held on the call of the county mayor or of three (3) or more board members, upon no less than twelve (12) hours' effective notice to each board member, except in the event of an emergency. Effective notice is notice served personally, or left at the usual place of residence or place of business of the particular board member sought to be notified.

D. Reservation of citizen rights. Nothing in this section shall be construed to limit or restrict a citizen's rights created by local or state statute, law, ordinance, or regulation.

(Amended November 1988; November 2004; November 2008)

State law reference—Public meetings required, F.S. § 286.011.

Sec. 210. Enactment of ordinances and resolutions.

The board shall take official action only by the adoption of ordinances, resolutions, or motions and shall do so in accordance with the due process requirements of general law. Emergency ordinances may be enacted without public notice or hearing in accordance with general law, and where

compelling circumstances warrant such action. Any ordinances adopted under emergency provisions will be reenacted, within thirty days of enactment, in accordance with the due process requirements of general law for non-emergency ordinances. Any ordinances enacted under emergency provisions will be effective for a limited period of thirty days.

(Amended November 1988; November 2004)

State law reference—Ordinance adoption procedures, F.S. §§ 125.66, 125.67.

Sec. 211. Code of ordinances.

The board shall maintain a current codification of all ordinances. Such codification shall be published and made available for distribution on a continuing basis.

(Amended November 1988)

State law reference—Codification of ordinances, F.S. § 125.68.

Sec. 212. Noninterference.

Except for purposes of inquiry and information, commissioners are prohibited from interfering with employees, officers, or agents under the direct or indirect supervision of the county mayor. (Amended November 1988; November 2004)

Sec. 213. Temporary succession plan.

In the event of an act of war or terrorism, a natural disaster, or other occurrence that results in more than one vacancy on the board and a concurrent likelihood of material delay in the filling of the vacancies by the Governor of Florida, then, to the extent not inconsistent with general or state constitutional law, temporary successors shall be chosen to serve, but in each case only until the governor appoints the permanent successor, or until the end of the term of said replaced elected official, whichever first occurs. The temporary successors shall be chosen as follows:

1. the temporary successors shall be chosen in the manner provided by ordinance enacted by the approving vote of no fewer than a majority plus one of the board prior to the act of war or terrorism, the natural disaster, or the other occurrence giving rise to the vacancies; or

2. absent such an ordinance, the temporary successors shall be chosen by the approving vote of no fewer than a majority plus one of the remaining board members.

If a quorum is impossible because of the vacancies, the requirement for a quorum shall be suspended for the purpose of choosing the temporary successors.

If at any time the legislature of Florida provides a method for prompt and temporary succession pursuant to Article II, Section 6 of the Florida Constitution, then any such method shall prevail over this section to the extent of any conflict.

(Amended November 2004)

ARTICLE III. EXECUTIVE BRANCH

Sec. 301. County administration.

There shall be an executive branch having jurisdiction over all operations of the county government not herein assigned to the legislative branch or otherwise provided by this Charter. The executive branch shall be composed of an elected county mayor, an appointed county administrator, the officers and employees of the administrative offices and executive divisions established by this Charter or created by the board, and the administrative offices and employees of all adjustment, regulatory and advisory boards and commissions, except as otherwise provided in this Charter.

(Amended November 1988; November 2004)

Sec. 302. County mayor.

The county mayor shall be a registered voter of and resident of Orange County at the time of election to office and throughout the term of office. The office shall be a full-time position combining both the duties of ceremonial head and operational head of those activities within the jurisdiction of the board of county commissioners.

- A. *Compensation.* The county mayor's salary shall be set by ordinance. The salary in

effect at the beginning of a county mayor's term in office shall not be lowered during that term.

(Orange County Comptroller note: Ord. No. 96-40, §3, 12-19-96; salary effective 10/01/01 = \$127,146.54/year)

- B. *Vacancy, incapacity, or absence due to military service.* Vacancies in the office of the county mayor shall be defined and filled in accordance with state law. If the county mayor changes residence from Orange County, he shall be deemed to have vacated such office. If the county mayor becomes permanently incapacitated and unable to perform his or her duties, a successor shall be chosen in the manner prescribed by general law. If the county mayor becomes temporarily incapacitated, or if the county mayor is absent for a prolonged period due to military service, then to the extent not inconsistent with general law a temporary substitute shall be chosen to serve during the incapacity or absence, as follows:
 1. The temporary substitute shall be chosen in the manner provided by ordinance enacted by the approving vote of no fewer than a majority plus one of the board members prior to the beginning of the incapacity or prolonged absence; or
 2. Absent such an ordinance, the temporary substitute shall be the person designated by the county major, if competent when the designation is made; or
 3. Absent such a designation, the temporary substitute shall be chosen by the approving vote of no fewer than a majority plus one of the commissioners.

The county mayor shall continue to receive his or her compensation during the absence or temporary incapacity. Unless defined otherwise by ordinance, temporary incapacity means a situation or condition that renders the county mayor unable to perform his or her duties for a

period of more than 90 consecutive days, but does not constitute a vacancy in the office. In no event shall any temporary substitute serve beyond the term of the county mayor.

- C. *Terms.* The county mayor shall be elected for a term of four years and shall be limited to two full consecutive terms. The term of the county mayor shall commence the same day the terms of the commissioners from even-numbered districts commence.
- D. *Duties.* The county mayor shall have the following powers and duties:
 1. Manage the operation of all elements of county government under the jurisdiction of the board, consistent with the policies, ordinances and resolutions enacted by the board;
 2. Serve as chair of the board of county commissioners;
 3. Vote on all matters before the board;
 4. Be responsible for the execution of all contracts and legal documents, but may delegate this authority;
 5. Prepare and publish agendas for all meetings of the board and submit the annual budget estimate with a plan of action to meet the needs of the county for adoption by the board;
 6. Appoint and dismiss heads of county departments, divisions and other agencies under the jurisdiction of the board except that all such appointments shall be made annually and shall be subject to confirmation by the board;
 7. Assure the faithful execution of all ordinances, resolutions and orders of the board and all laws of the state which are subject to enforcement by the county mayor, or by officers who are subject under this Charter to the mayor's direction and supervision;
 8. Present annually at a time designated by the board, a "state of the

county" message, setting forth programs and recommendations to the board;

9. Supervise the daily activities of employees;
10. Serve as the official representative and ceremonial dignitary for the government of Orange County, with prerogative to issue proclamations;
11. Sign ordinances, resolutions and documents for the board;
12. Call the board into regular and special session; and
13. Carry out other powers and duties as required by this Charter or may be prescribed by the board.

(Amended November 1988; November 2004)

Sec. 303. County administrator.

There shall be a county administrator who shall be appointed by the county mayor and confirmed by the board and shall serve at the pleasure of the mayor. The county administrator shall be nominated and selected on the basis of professional training and executive and administrative experience as set forth by ordinance. The county administrator shall be employed on a full-time basis to assist the county mayor in the daily management of the county.

- A. *Compensation.* The county administrator's salary will be established by resolution of the board after recommendation by the county mayor.
- B. *Vacancy.* The county mayor may designate a qualified county administrative officer or county employee to exercise the powers and perform the duties of the county administrator during the county administrator's absence or disability. If there is a vacancy in both the offices of county mayor and the county administrator, the board shall designate by resolution a qualified person to perform the duties of the county administrator.

(Amended November 2004)

ARTICLE IV. ADMINISTRATIVE DIVISIONS, OFFICERS AND AGENCIES

Sec. 401. General provisions.

The activities under the direction and supervision of the county mayor shall be distributed among such initial divisions and agencies as are established by this Charter or may be established, merged or abolished thereunder by the administrative regulations. Except as provided by this Charter, each such division or agency shall be administered by an officer appointed by and subject under this Charter to the direction and supervision of the county mayor.

(Amended November 1988; November 2004)

Sec. 402. Initial divisions and administrative regulations.

A. [*Initial divisions.*] The following initial divisions are hereby established:

1. Community rehabilitative services.
2. Fire and rescue services.
3. Public utilities.
4. Administrative support.
5. Health and human services.
6. Public works and development.
7. Civic facilities.
8. Legal services.

B. *Administrative regulations.* The county mayor shall prepare administrative regulations and submit same to the board for review, amendment and adoption, which regulations shall set forth the organization of Orange County government and the nature and scope of each division together with rules, procedures and personnel for operation of said divisions.

(Amended November 1988; November 2004)

Sec. 403. [Reserved.]

(Repealed November 1988)