

## ORDINANCE NO. 2019-01

**AN ORDINANCE OF THE CITY OF BOWLING GREEN, FLORIDA PROVIDING FOR A TITLE FOR THE ORDINANCE AND THE 2019 CHARTER AMENDMENTS; APPROVING THE FORM OF CHARTER AMENDMENTS; APPROVING THE FORM OF BALLOTS FOR THE ELECTION APPROVING THE 2019 CHARTER AMENDMENTS; ESTABLISHING AN ELECTION DATE FOR APPROVAL OF THE 2019 CHARTER AMENDMENTS BY THE ELECTORATE; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOWLING GREEN, FLORIDA AS FOLLOWS:**

**SECTION 1. TITLE.** This Ordinance shall be referred to as the “2019 Charter Amendment Ordinance”, and the charter approved herein shall be referred to as the “2019 Charter Amendments.”

**SECTION 2. ACCEPTANCE OF THE FORM OF CHARTER.** The City Commission does hereby accept the 2019 Charter Amendments attached hereto as Exhibit “A”.

### **SECTION 3. 2019 CHARTER APPROVED; SET FOR ELECTION.**

- A. **Charter approved.** The form of the 2019 Charter Amendments as shown on Exhibit “A” is hereby approved for placing in ballots for election as provided by section 166.031 Florida Statutes.
- B. **Form of Ballots Approved.** The form and text of the ballots to be used for the election to approve the 2019 Charter shown on Exhibit “B” is hereby approved.
- C. **Date of Election.** The date of the election for the electors of the City to either approve or reject the 2019 Charter Amendments shall be October 15, 2019.

### **SECTION 4 SEVERABILITY**

It is declared to be the intent of the City Commission that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this Ordinance.

### **SECTION 5. EFFECTIVE DATE.**

This Ordinance shall be effective upon passage.

This ordinance was read for the first time at the Regular Meeting of the City Commission on the 9<sup>th</sup> day of July, 2019 where it was voted on by members of the City Commission as follows:

Yeas 4 Nays 0 Absent 1

This ordinance was authorized to be read for a second and final time at the Regular Meeting of the City Commission on the 13<sup>th</sup> day of August, 2019, where it was voted on by members of the City Commission as follows:

Yeas 5 Nays 0 Absent 0

(Seal)

ATTEST:

By: [Signature]  
Maria Carmen Silva, City Clerk

CITY OF BOWLING GREEN, FLORIDA

By: [Signature]  
Sam Fite, Mayor

APPROVED AS TO FORM  
AND CONTENT:

[Signature]  
Gerald T. Buhr, City Attorney

## **EXHIBIT “A”**

### **CITY OF BOWLING GREEN, FLORIDA CHARTER**

#### **ARTICLE I - CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWER**

##### **Section 1.01. General**

(a) **Corporate existence; form of government; Charter.** The City of Bowling Green, in Hardee County, Florida is hereby created and continues as a Commission-Manager form of government as a successor to the previous charter government.

**Section 1.02. Description of corporate boundary.** The area described in Appendix A of this Charter shall constitute the corporate boundary of the City of Bowling Green, along with updates on file with the city clerk. Appendix A may be amended from time to time by Ordinance of the City Commission.

**Section 1.03. Extension of Corporate Limits / Annexation.** The corporate limits of the City of Bowling Green may be revised as provided by general law.

**Section 1.04. General Powers of City.** The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law and this Charter.

**Section 1.05. Construction.** The powers of the City shall be constructed liberally in favor of the City, limited only by the State Constitution, general and special law, and specific limitations in this Charter.

#### **ARTICLE II - CITY COMMISSION**

**Section 2.01. Composition of City Commission.** There shall be a City Commission of five members elected at large by the electors of the City. Only qualified electors of the City shall be eligible to be members of the City Commission.

##### **Section 2.02. Election and Terms.**

###### **(a) Composition; Terms.**

(1) The City Commission shall consist of five (5) electors of the City of Bowling Green, one of whom shall be the mayor-commissioner; one vice-mayor-commissioner. The seats shall be designated as Seat 1, Seat 2, Seat 3, Seat 4 and Seat 5. Candidates shall be required to file for a specific seat.

(2) Members of the Commission shall be elected for four-year, staggered terms. Candidates shall have qualifications as defined in the Charter, elected at large.

(3) Members of the Commission shall not hold any other elective office of the City, except as otherwise provided herein.

(4) A Commissioner shall forfeit their office if the Commissioner ceases to be a resident and qualified elector of the City, ~~and it shall be a basis for removal from office or~~ if the a Commissioner misses two (2~~3~~) consecutive meetings without being excused by the Commission.

### **Section 2.03 Judge of Qualifications.**

(a) **Commission is judge of Qualification.** The Commission shall be the judge of the election and qualifications of its members and the grounds for forfeiture of their office and for that purpose shall have the power to subpoena witnesses, administer oaths, and require production of evidence.

(b) **Procedure for removal of Commissioner.** A Commissioner charged with conduct constituting grounds for forfeiture of this officer shall be notified by the City Clerk by certified mail and shall be entitled to a public hearing at the next regularly scheduled meeting of the Commission. Notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance, specifically notifying the public of the hearing.

### **Section 2.04 Mayor, Vice-Mayor.**

(a) **Mayor.** The City Commission, at its first regular meeting after newly elected Commissioners have been sworn in and each year thereafter, shall elect from its membership a Mayor and a Vice-Mayor who shall serve at the pleasure of the commission and shall have the same legislative powers and duties as other commissioners except as provided herein.

(b) **Authority of Mayor limited.** The office of Mayor shall be a ceremonial position, except that the Mayor, or in his or her absence, the Vice Mayor, shall retain the legislative powers of a commissioner, but shall also:

(1) Chair all Commission meetings, subject to the rules of order adopted by the Commission. If both the Mayor and the Vice-Mayor are absent from a meeting, the remaining members by majority vote, shall determine which among them shall chair that meeting.

(2) Sign all ordinances, resolutions, contracts and other documents approved by the Commission.

### **Section 2.05. Legislative Powers, Compensation, Meetings.**

(a) **Legislative Powers; quorum; majority vote required.** The Board of City

Commissioners shall be vested with all legislative power of the City. A majority of the Commission shall constitute a quorum. Except as provided in this Charter or ordinance, any action of the Commission shall be valid if adopted by an affirmative vote of at least a majority of the members of the Commission present.

(b) **Commission meetings; time and place.** The Commission shall meet regularly at least once a month at such times and places as the Commission may prescribe by ordinance or resolution. Special meetings may be held at the call of the City Manager or in his or her absence, the Interim City Manager; any two (2) commissioners; the Mayor, or in his or her absence, the Vice-Mayor. The Clerk shall provide for not less than 24 hours of notice to each member and the public. The newly elected City Officers may be sworn in at City Hall on the day following the election.

(c) **Rules of Order.** The Commission shall determine its own rules and order of business.

#### **Section 2.06. Compensation of Commission.**

The members of the City Commission shall receive a salary, the amount and terms of which shall be determined by ordinance.

#### **Section 2.07. Vacancies, Filling of vacancies in the Office of Commissioner.**

(a) **Vacancies.** The office of Commissioner shall become vacant in accordance with general law or if a Commissioner is absent from two (2) consecutive Commission meetings without being excused by Commission prior to the second consecutive absence.

(b) **Filling of vacancies.** Should there occur one or two vacancies in the said Commission more than six months prior to an election, the City Clerk shall immediately certify such fact to the City Manager, who shall call a special meeting of the Commission to immediately pass a resolution calling for a special election to be held to fill such vacancy. Said election shall be held not less than thirty days from issuance of said resolution, which resolution shall be published in a newspaper of general circulation in the City of Bowling Green at least three times, or by posting the same in three public places in said City, one of which places shall be the post office, for at least ten days before said election. If less than six months remain prior to a general election when such vacancy or vacancies occur, the seat(s) shall be filled by a majority vote of the remaining members of the Commission within fifteen (15) days of the vacancy. Any person appointed by Commission or elected in a special election to fill a Commission vacancy, shall hold office until the next general election in the City.

#### **Section 2.08. Limitations and Prohibitions on Commission and Commissioners - Authority.**

(a) The Commission shall not in any manner dictate or give orders to any non-appointed employee of the City in carrying out their official duties as an employee of the City. The Commission may make investigations into the affairs of the City and make formal recommendations to the City Manager for providing a modern efficient and economical

governmental City.

(b) No Commissioner shall individually dictate or give orders to any officer or employee of the City, whether appointed or not, in carrying out their official duties as an employee of the City. Violation of this prohibition shall be grounds for forfeiture of office.

(e) ~~No Commissioner shall be employed by the City in any other capacity except Mayor or Vice Mayor during their term of office, nor shall a former Commissioner be employed by the City until after the expiration of one (1) year from the time of leaving office.~~

### **ARTICLE III - EXECUTIVE**

**Section 3.01. City Manager.** There shall be an appointed City Manager ~~who shall be the chief executive officer of the City government~~ who shall be the administrative head of the municipal government under the direction and supervision of the city commission and shall enforce the laws of the City and require the faithful performance of all administrative duties.

**Section 3.02. City Manager; qualifications, compensation and duties.**

(a) **Qualifications.** The City Manager shall be appointed by the City Commission. The qualifications, ~~compensation and duties of the City Manager shall be as provided by ordinance, which may include contractual employment terms not in conflict with this Charter.~~ Compensation shall be approved by an affirmative vote of not less than three (3) of the commissioners.

(b) **Removal.** The City Manager may be removed at any time by an affirmative vote of at least three (3) commissioners at a regular meeting. An employment contract may not prohibit such removal but may provide for severance pay for such removal.

(c) **Interim City Manager.** In the event that the City Manager is sick or absent from work for any reason other than termination for a period of time requiring temporary replacement, the City Manager may recommend a temporary replacement to fulfill the duties of City Manager, subject to Commission approval. The Commission may either approve the City Manager's recommendation, appoint another person as temporary City Manager, or proceed without a City Manager for that temporary period. In the event that the City Manager's employment is terminated for any reason; the Commission may appoint an Interim City Manager until the new City Manager is appointed.

**Section 3.03. City Clerk, City Attorney and Chief of Police.**

(a) **Appointment.** The Commission shall appoint the City Attorney, ~~City Clerk and Chief of Police.~~ The qualifications of the City Attorney, ~~City Clerk and Chief of Police shall be as provided by ordinance, and compensation of the City Attorney, City Clerk and Chief of Police shall be provided by majority vote of the Commission.~~ Compensation of the Police Chief shall be approved by an affirmative vote of not less than three (3) of the commissioners.

(b) **Removal.** The City Attorney, ~~City Clerk~~ or Chief of Police may be removed at any time by an affirmative vote of at least three (3) commissioners at a regular meeting. An employment contract may not prohibit such removal but may provide for severance pay for such removal.

### **Section 3.04. Supervision of Departments.**

(a) **Duties.** Except as otherwise provided in this Charter or by general law, the City Manager shall be responsible for the supervision and direction of all departments, agencies or offices of the City. ~~With the consent of the Commission, and with the exception of the Legal Department, if applicable, the City Manager may serve as the interim head of one (1) or more of such departments, agencies or offices or may appoint one (1) person as the interim head of two (2) or more of them.~~

(b) **Exceptions.** The City Attorney shall advise the City Manager as requested by the City Manager or Commission; however, the City Attorney shall be excepted from the authority of the City Manager.

(c) **City Clerk.** The City Clerk shall be hired and shall be supervised by the City Manager. The City Clerk shall give notice of all city meetings to the commissioners and the public as required by law and shall attend all such meetings in person or by a city manager designee and shall keep minutes of the proceedings. The City Clerk shall authenticate by signature and shall be custodian of this Charter, corporate limits, all ordinances, resolutions, and other city documents and shall perform such other duties as required by law or the City Manager. The City Clerk shall be the supervisor of elections for the city.

### **Section 3.05. Personnel System.**

All appointments and promotions of City officers and employees except those specifically exempted by ordinance or contract, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and to this end, the Commission shall, by ordinance, establish personnel procedures and rules.

### **Section 3.06. Administrative Code.**

The City Manager shall, with the consent of the Commission, promulgate and keep current an administrative code for the purposes of implementing ordinances of the City.

## **ARTICLE IV - QUALIFICATIONS AND ELECTIONS**

### **Section 4.01. Nonpartisan Elections; Date of Elections.**

(a) **Nonpartisan Elections.** All qualifications and elections for the office of City Commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee or any nomination petition or ballot.

(b) **Date of Election.** A regular or general election of candidates to the office of City

Commissioner shall be held on the Tuesday following the first Monday in November of every year that any Commissioner's term expires. The candidate or nominee receiving the clear majority of votes for each seat at such general election shall be declared elected. In the event that no one candidate receives a clear majority of the votes in the general election, another election shall be held on the following Tuesday, and the two (2) candidates receiving the most votes at that previous election shall be the only candidates considered for that Commission seat on the ballot for such general election. In the event of a tie at the run-off election, an additional run-off shall be held the following Tuesday. Commission seats for candidates that were not reelected expire at the conclusion of old business during the next regular meeting of the Commission following the election, and newly elected or reelected Commissioners shall take their seat at that time after being sworn in.

#### **Section 4.02. Qualifications.**

Candidates for the office of City Commissioner shall qualify for such office by the filing with the City Clerk at such time and in such manner as may be prescribed by ordinance, written notice of candidacy designating the seat being sought.

#### **Section 4.03. Form of Ballots.**

(a) The Commission shall, by ordinance, prescribe the form of the ballot including method for listing candidates for City Commission elections and any other City elections. Paper ballots may be used for all municipal elections.

(b) A Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described amendment be adopted?" Immediately below such question shall appear, in the following order, the words "for approval" and also the words "against approval" with a sufficient blank space thereafter for the placing of the symbol "X" to indicate the voter's choice or other clear manner of choice selection if other forms of voting equipment are used.

#### **Section 4.04. Recall**

The qualified voters of the City shall have the power to recall and to remove from office any elected official of the City as provided by general law.

### **ARTICLE V - GENERAL PROVISIONS**

#### **Section 5.01. Charter amendments.**

This Charter may be amended in accordance with the provisions for Charter amendments as specified in the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, or its successor. The form, content and certification of any petition to amend shall be established by ordinance.

**Section 5.02. Oath of Office.**

After election or appointment and before taking office each Commissioner, Mayor or Charter officer of the City shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State and under the Charter of the City of Bowling Green; that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God."

**Section 5.03. Adoption of budget.**

The Commission shall adopt an annual budget for the City by resolution before October 1 of each year. A resolution adopting an annual budget shall constitute appropriations of the amount specified as expenditures from the funds indicated and shall constitute a levy of the property tax proposed.

**ARTICLE VI - TRANSITION**

**Section 6.01. Effective Date.**

This Charter shall take effect immediately upon approval by the electorate and the filing with the State.

**Section 6.02 Continuation of Former Charter Provisions.**

All Charter provisions in effect prior to the effective date of this Charter are repealed except those provisions that establish the municipal corporation.

**Section 6.03. Ordinances and Resolutions Preserved.**

All ordinances and resolutions in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

**Section 6.04. Rights of Officers and Employees.**

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected.

**Section 6.05. Pending Matters.**

No rights, claims, actions, contracts, or legislative or administrative proceedings existing

on effective date of this Charter and involving the City shall be affected by the adoption of this Charter including the number of alcoholic beverage licenses which the City may be presently allowed by law.

**Section 6.06.    Designation of Commission Terms Subsequent to Passage of Charter Amendment.**

The Commissioners' term(s) (seats 4 & 5) previously expiring at general elections to be held in 2015, shall be extended to the elections in November 2016. The Commissioner's seat (seat 2) currently expiring in 2016 shall be extended to the elections in November 2018. The two (2) Commissioners' terms (seats 1 & 3) expiring at the general election to be held in 2017 shall be extended to the elections in November 2018.

**ATTEST AS TO APPROVAL BY ELECTORATE AT AN ELECTION HELD ON \_\_\_\_\_, 2019, AND FILING WITH OFFICE OF SECRETARY OF STATE ON \_\_\_\_\_, 2019.**

\_\_\_\_\_  
**Maria Carmen Silva, City Clerk**

## **EXHIBIT “B”**

### **BALLOT 1**

#### **Amendment to Change Prohibited Number of Missed Commission Meetings without Commission Approval**

**The existing City Charter shall be amended as follows:**

Section 2.02(a)(4) -- This Amendment increases the number of consecutive missed meetings without commission approval that could subject the commissioner to removal from 2 to 3.

**Shall the above described amendment be adopted?**

**For Approval \_\_\_\_\_**

**Against Approval \_\_\_\_\_**

## **BALLOT 2**

### **Amendment to Allow Recent ex-Commissioners to be Employed By the City Without Waiting One Year**

**The existing City Charter shall be amended as follows:**

2.08(c) --This amendment removes the language that prohibits ex-commissioners from being hired by the City for one years after leaving office.

**Shall the above described amendment be adopted?**

**For Approval \_\_\_\_\_**

**Against Approval \_\_\_\_\_**

## **BALLOT 3**

### **Amendment to Change To Change City Manager from CEO of City to Administrative Head.**

**The existing City Charter shall be amended as follows:**

3.01 -- This amendment changes the position of the City Manager from chief executive officer of the City to “the administrative head” of the City.

**Shall the above described amendment be adopted?**

**For Approval \_\_\_\_\_**

**Against Approval \_\_\_\_\_**

## **BALLOT 4**

### **Amendment to Require Vote of Three Commissioners to Increase Police Chief and Manager's Compensation.**

**The existing City Charter shall be amended as follows:**

3.02(a) & 3.03(a) -- This amendment changes the number of commissioners required to approve a change in the Police Chief or City Manager's compensation from a simple majority of commissioners present to a firm number of three affirmative votes.

**Shall the above described amendment be adopted?**

**For Approval** \_\_\_\_\_

**Against Approval** \_\_\_\_\_

## **BALLOT 5**

### **Amendment to Remove Unnecessary Language Regarding City Manager's Supervision of Departments.**

**The existing City Charter shall be amended as follows:**

3.04(a) -- This amendment leaves in the language regarding the City Manager supervising and directing of all non-charter departments, agencies or offices of the City, and deletes unnecessary language regarding Manager's selection of department heads or interim heads.

**Shall the above described amendment be adopted?**

**For Approval \_\_\_\_\_**

**Against Approval \_\_\_\_\_**

## **BALLOT 6**

### **Amendment to Place City Clerk Under Supervision of City Manager**

**The existing City Charter shall be amended as follows:**

3.04(c) -- This amendment removes the City Clerk from City Commission hiring, termination, and supervision, and places the Clerk under the City Manager's full supervision. The Clerk's duties shall be those provided by law, this Charter, City ordinances, and the City Manager's direction.

**Shall the above described amendment be adopted?**

**For Approval** \_\_\_\_\_

**Against Approval** \_\_\_\_\_