

# TOWN OF MELBOURNE VILLAGE CHARTER



*Adopted by Majority Vote, New Charter Referendum, November 5, 2024*

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## **PREAMBLE**

We, the citizens of the Town of Melbourne Village, in order to build a municipality which enhances the ideals of community living, to secure the benefits of municipal home rule and local self-government granted to us by the laws of this state, and to promote our innate rights of life, liberty, and the pursuit of happiness, do hereby adopt this Charter amending, replacing, and superseding its former Charter, in accordance with the Constitution and laws of the State of Florida.

## **Sec. 1.01 EFFECT OF THIS CHARTER ON EXISTING LAW**

- (1) The existing Charter of the Town of Melbourne Village, Brevard County, State of Florida, is hereby amended, replaced, and superseded.

- (2) The Town of Melbourne Village (hereinafter to be known as the “Town”) shall succeed to, own, possess, and hold all real property and all tangible and intangible personal property, and shall succeed to all existing federal and state grants, all uncollected taxes, dues, claims, judgments, and causes of action owned, possessed, or held by the Town.
- (3) The Town shall have, exercise, and enjoy all the rights, immunities, powers, benefits, privileges, and franchises now possessed, owned, or held by it.
- (4) No obligation or contracts of the Town shall be impaired or voided by this act, but such debts and obligations shall pass to, and be binding upon, the Town.
- (5) All elected or appointed officers holding office on the effective date of this Charter shall continue in office until their present respective terms shall expire.
- (6) All laws and parts of laws relating to or affecting the Town in force when this Charter shall take effect are hereby repealed and superseded to the extent that they are inconsistent with the provisions of this Charter; insofar as the provisions of this Charter are the same in terms or in substance and effect as provisions of law in force when this Charter shall take effect, relating to or affecting the Town. The provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law and this Charter shall be so construed and applied.

#### **Sec. 1.02 CREATION OF NEW CHARTER**

The inhabitants of the Town shall continue to be a body politic and corporate to be known and designated as the “Town of Melbourne Village, Florida” and as such shall have perpetual succession, shall sue and be sued, plead and be impleaded, and shall have the use of a common seal.

The Town shall have all powers possible for a town to have under the Constitution and the laws of the State of Florida as fully and completely as if specifically enumerated under this Charter, in addition to any powers specifically so enumerated.

#### **Sec. 1.03 TOWN POWERS**

The Town of Melbourne Village in Brevard County, Florida, incorporated May 13, 1957 under Chapter 57-1578 Special Laws of Florida, shall have all of the powers, functions, and immunities granted to municipal corporations by the Constitution and laws of the State of Florida, including the Municipal Home Rule Act, as now or hereinafter existing, together with the implied powers necessary to carry into execution all the powers granted. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the Town shall have and exercise all powers not otherwise prohibited to municipal corporations by the Constitution and laws of this state.

#### **Sec. 1.04 BOUNDARIES**

The boundaries of the Town shall remain fixed and established as they exist on the date this Charter takes effect. Changes in boundaries shall be accomplished as prescribed by law. The boundary description of the Town, which may be amended from time to time, is not printed herein, but shall be on file in the office of the Town Clerk-Treasurer.

#### **Sec. 1.05 FORM OF GOVERNMENT**

Pursuant to its provisions and subject only to the limitations imposed by the Constitution, general and special acts and laws of the state of Florida, and by this Charter, all legislative powers of the Town shall be vested in an elected Town Commission, hereinafter referred to as the "Commission." The Commission shall enact ordinances, adopt resolutions, adopt budgets, and determine policies. The Mayor shall execute the laws and administer the government of the Town. All powers of the Town shall be exercised in the manner prescribed by this Charter. If the manner is not prescribed, then the powers shall be exercised in such manner as may be prescribed by ordinances.

#### **Sec. 2.01 GENERAL POWERS AND DUTIES OF THE TOWN COMMISSION**

All powers of the Town shall be vested in an elected Commission, except as otherwise provided by law or by this Charter. The Commission shall exercise the municipal powers of the Town and perform all duties and obligations imposed on the Town by law.

#### **Sec. 2.02 COMPOSITION AND QUALIFICATIONS**

The Commission shall consist of six (6) members and a Mayor elected at large by the qualified electors of the Town as hereinafter provided. Members of the Commission shall have their primary residence in the Town for at least one (1) year prior to the date of qualification for office and shall have the qualifications of a Town Elector per section 10.04 of this Charter.

#### **Sec. 2.03 QUALIFYING OF CANDIDATES FOR OFFICE OF TOWN COMMISSION**

Any Elector of the Town, having the qualifications herein provided for Commission members, and desiring to be a candidate for election as a Commission member, shall file with the Town Clerk-Treasurer a qualifying statement in substantially the following form with the signatures of a number of qualified electors as established by ordinance of the Commission:

"I am a candidate for a seat on the Town Commission in the election of (Mayor or Town Commissioner) and I agree to serve if I am elected. I am a qualified elector in the State of Florida, and I have maintained my primary residence in the Town of Melbourne Village, or in an area which has been annexed by the Town of Melbourne Village, for at least one (1) year immediately preceding my qualifications herein."

The Town Clerk-Treasurer shall have qualifying forms available for completion by any candidate who may request such a form. Such qualifying statements shall be filed in accordance with time

periods set forth in the Statutes of the State of Florida, any applicable regulations, and established from time to time in the Town Code of Ordinances. A qualifying fee, if any, shall be established by the Commission.

#### **Sec. 2.04 COMPENSATION**

The compensation of Commission members or of the Mayor, if any, together with the manner of payment, shall be established by the budgetary process according to Florida Statute. The budget establishing the annual compensation of the Mayor and the Commission members shall be undertaken prior to September 30<sup>th</sup> as required by law. The Commission and Mayor may provide that members shall receive their actual and necessary expenses incurred in the performance of their duties and shall be reimbursed at the current government rate.

#### **Sec. 2.05 TERM OF OFFICE**

Commission members shall take office at the first regular meeting following each general election. Commission members, including the Mayor, shall hold office for a term of two (2) years, unless removed for cause or until their successors are elected and qualified per section 2.09 of this Charter.

#### **Sec. 2.06 MAYOR AND VICE MAYOR**

The Mayor shall qualify and run for office for a term of two (2) years as hereinafter provided. The Mayor shall be a voting member of the Commission, the presiding officer of the Commission, the chief executive officer, and the titular and administrative head of the Town. The Mayor is recognized as head of the Town government for administrative and ceremonial purposes, for the purposes of service of civil process, and for purposes of martial law. The Mayor shall execute all instruments to which the Town is a party unless otherwise provided by this Charter or by law. The Commission shall elect a Vice Mayor at the first regular meeting of the newly elected Commission following each regular Town election. In all instances, the Vice Mayor shall be elected by the affirmative vote of the majority of the Commission. The Vice Mayor shall act as Mayor during the absence or disability of the Mayor.

#### **Sec. 2.07 POWERS AND DUTIES OF THE MAYOR**

The Mayor shall, with the advice and consent of the Commission:

- (1) Appoint, establish salaries for, and when deemed necessary for the good of the Town, suspend or remove Town employees or appointive administrative officers provided for by this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The Mayor may authorize any administrative officer who is subject to the Mayor's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

- (2) Direct and supervise the administration of the Town Clerk-Treasurer, all departments, offices, and agencies of the Town, except as otherwise provided by this Charter or by law.
- (3) Ensure that all laws, provisions of this Charter, and acts of the Commission, subject to enforcement by the Mayor or by officers subject to the Mayor's direction and supervision, are faithfully executed.
- (4) Submit the annual budget, budget message, and capital program to the Commission.
- (5) Submit to the Commission and make available to the public a complete report on the finances and administrative activities of the Town as of the end of each fiscal year.
- (6) Make such other reports as the Commission may require concerning the operations of Town departments, offices, and agencies.
- (7) Make recommendations to the Commission concerning the general operations of the Town.
- (8) Keep the Commission fully advised as to the financial condition and future needs of the Town, and make such recommendations to the Commission concerning the affairs of the Town as deemed desirable.
- (9) Execute contracts with the advice and consent of the Commission on behalf of the Town pursuant to the provisions of appropriation ordinances or resolutions.
- (10) Perform such other duties as are specified in this Charter or may be required by the Commission.

## **Sec. 2.08 JUDGE OF QUALIFICATIONS**

The Commission shall be the judge of the election and qualification of its members and of the grounds for forfeiture of their offices, and for those purposes shall have the power to subpoena witnesses, administer oaths, and require the production of evidence. A member of the Commission charged with conduct constituting grounds for forfeiture of the office held by such member shall be entitled to a public hearing on demand and notice of such hearing shall be posted and/or published at least one (1) week in advance of the hearing. Decisions made by the Commission under this section shall be subject to review by the courts.

## **Sec. 2.09 FORFEITURE OF OFFICE**

- (1) A Commission member shall forfeit their office if, at any time during such Commission member's term of office, such Commission member:
  - (a) Is convicted of a felony or is found guilty by a judge or jury or pleads guilty or *nolo contendere* to any felony or a crime involving moral turpitude whether or not adjudication is withheld; or
  - (b) Fails to attend three (3) consecutive regular Commission meetings; except where such absences result from a major illness of the Commission member, in which

- case, absences at six (6) consecutive regular Commission meetings shall be required; or
- (c) Fails to attend five (5) regular Commission meetings during any consecutive twelve-month period; or
  - (d) Ceases to have their primary residence in the Town; or
  - (e) Ceases to be a Town Elector; or
  - (f) Lacks any qualification for the office prescribed by this Charter or by law.
- (2) The Commission shall declare that a Commission member has forfeited their office through the following procedure:
- (a) The Commission shall adopt by affirmative vote of four (4) of its members a preliminary resolution specifically setting forth the reason(s) for forfeiture. Such preliminary resolution shall provide for the time, place, and date of a public hearing to be held to consider a final resolution of forfeiture.
  - (b) The public hearing shall be scheduled for a date at least seven (7) days, but no more than thirty-one (31) days, after the adoption of the preliminary resolution. Prior to the adoption of a final resolution of forfeiture, the Commission member who is the subject of the preliminary resolution shall be afforded the opportunity, at such public hearing, to respond to the reason(s) for forfeiture stated in the preliminary resolution. An affirmative vote of four (4) Commission members shall be required for adoption of the final resolution of forfeiture.
- (3) The availability of the aforesaid procedure shall not limit the right of any citizen, including a Commission member, to seek a judicial determination that a Commission member has forfeited their office.
- (4) The Commission may adopt a final resolution of forfeiture which may be made effective immediately by affirmative vote of five (5) members of the Commission at any time after five (5) days from the date on which a copy of the preliminary resolution was delivered to the subject Commission member if the subject member has not requested a public hearing. If the subject member has requested a public hearing, the Commission may adopt a final resolution at any time after the public hearing. The member who is subject to forfeiture of office under the terms of the final resolution shall not be entitled to vote on that resolution. A copy of the final resolution shall be promptly delivered to the subject Commission member.
- (5) On the effective date of the final resolution the seat of the subject person shall be deemed vacant, and the said seat shall be subsequently filled in accordance with Section 10 of this Charter.

## **Sec. 2.10 VACANCIES ON THE COMMISSION**

A vacancy shall occur upon the death, resignation, removal from office (other than by recall) as authorized by law, or forfeiture of office of a Commission member. A vacancy in the office of Commissioner shall be filled with a qualified Elector by an affirmative vote of the majority of the



remaining Commission within sixty (60) days from the date the vacancy occurred, who shall serve until the next general election. In the event the office of Mayor is vacated, the Vice Mayor shall assume the duties of Mayor until the next general election. The Commission shall choose a new Vice Mayor to serve until the next general election.

### **Sec. 2.11 RECALL**

Recall of Mayor or Commission members shall be done in accordance with the general law of the State of Florida.

### **Sec. 2.12 OATH OF OFFICE**

Every Commission member shall, before entering upon the duties of their office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk-Treasurer:

“I, (insert name), do solemnly swear (or affirm) that I will support, protect, and defend the Constitution of the United States and of the State of Florida, and the Charter and Laws of the Town of Melbourne Village, and that I will bear faith, loyalty, and allegiance to the same; and that I will faithfully perform all the duties of the office of (Mayor or Commissioner) in the Town of Melbourne Village, upon which I am about to enter.”

### **Sec. 3.01 MEETINGS**

- (1) *Generally.* Meetings shall be open to the public. Minutes of each Commission meeting shall be kept as public documents.
- (2) *Regular meetings.* The Commission shall meet regularly at such times and places as may be prescribed by ordinance, but in no event less than once each month. All regular meetings shall be held at a specified time and place within the Town limits.
- (3) *Special meetings.* Special meetings, limited to the subjects specified in the call, may be convened by the Mayor or four (4) Commission members. At least twenty-four (24) hours' notice shall be provided to each Commission member. A notice stating the time, place, and subject matter of said meeting shall be posted at the Town hall. The Commission shall prescribe the means of serving or furnishing such notice to its members.
- (4) *Emergency meetings.* Emergency meetings may be convened by the Mayor or four Commission members. Maximum reasonable notice shall be given to each Commission member. The first order of business shall be the determination, by a vote of at least one Commission member present, that an emergency situation involving health, safety, or public welfare warranting Commission actions exists. Only matters relating to the emergency may be considered at such meeting. Emergency meetings may be called with six (6) hours' notice.

### **Sec. 3.02 COMMISSION QUORUM AND RULES**

- (1) Four (4) members of the Commission shall constitute a quorum. No action of the Commission, except raising a quorum, shall be valid or binding unless adopted by the affirmative vote of at least four (4) members of the Commission. Voting shall be accomplished by having the presiding officer of the Commission request affirmative and negative votes. The total of affirmative and negative votes shall be recorded in the minutes of the Commission.
- (2) The Commission shall determine its own rules and orders of business and shall provide for the keeping of minutes of its proceedings. The Commission may prescribe rules for expelling disorderly persons from its meetings.

### **Sec. 3.03 ADOPTION OF ORDINANCES, RESOLUTIONS, AND CODES OF TECHNICAL REGULATIONS**

- (1) Ordinances and resolutions shall be adopted as provided by the general law of the State of Florida.
- (2) The Commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. Adopting ordinances shall be enacted as herein prescribed. Any adopted code of technical regulation shall be made available for distribution or purchase at reasonable cost.

### **Sec. 3.04 ORDINANCES BY REFERENDUM VOTE**

The Commission may submit any proposed ordinance to a referendum vote of the qualified electors without filing a petition request.

### **Sec. 3.05 PUBLIC NOTICE**

Public notices shall be posted and/or published per Florida Statute.

### **Sec. 4.01 DEPARTMENTS, OFFICES, AND AGENCIES**

- (1) *Creation of Departments.* The Commission may establish Town Departments, Offices, or Agencies in addition to those created by this Charter and may prescribe the functions of all Departments, Offices, and Agencies, except that no function assigned by this Charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.
- (2) *Direction by Mayor.* All Departments, Offices, and Agencies under the direction and supervision of the Mayor shall be administered by an officer appointed by and subject to the direction and supervision of the Mayor with the advice and consent of the Commission.

#### **Sec. 4.02 OFFICE OF THE TOWN CLERK-TREASURER**

This office shall be headed by the Town Clerk-Treasurer, who shall be appointed and removed by the Mayor, with the advice and consent of the Commission, and shall serve the Commission. The salary of the Town Clerk-Treasurer shall be recommended by the Mayor and approved by the Commission, and shall report to, and be under the administrative direction and control of, the Mayor.

#### **Sec. 4.03 DUTIES OF THE TOWN CLERK-TREASURER**

The Town Clerk-Treasurer shall give notice of the meetings of the Commission; shall be responsible for keeping the minutes of its proceedings; shall be custodian of the Town's seal; shall authenticate by the Clerk-Treasurer's signature and shall record in full in books kept for that purpose all ordinances and resolutions passed by the Commission; shall be Clerk of the Commission; shall be custodian of ordinances, resolutions, and such other official records as the Commission may prescribe; shall be attestor to contracts, bonds, and other instruments as may be prescribed by law; shall have the power to administer oaths; shall be chief registration and elections officer of the Town; shall prepare reports of financial transactions and Town activities; shall perform accounting and bookkeeping functions of the Town's financial activities; and shall perform such other duties as required by state law or as may be assigned by the Mayor or Commission.

#### **Sec. 5.01 TOWN ADMINISTRATOR**

The Mayor, with the advice and consent of the Commission, may appoint one person to act as Town Administrator, who may be charged with direction and supervision of all Town Departments. The Town Administrator shall report to, and be under the administrative direction and control of, the Mayor. The Town Administrator may be removed either by the Mayor, with the advice and consent of the Commission, or by the vote of a majority plus one of the Commission members.

#### **Sec. 5.02 TOWN ATTORNEY**

There shall be a legal officer appointed who shall serve as legal advisor to the Commission and all Town departments, offices, and agencies. The legal officer shall also represent the Town in legal proceedings and shall perform such other duties as are prescribed by this Charter or by ordinance. The Town Attorney is not an officer of the Town.

#### **Sec. 6.01 FISCAL YEAR**

The fiscal year of the Town shall begin on the first day of October and end on the last day of September, or as prescribed by state law.

## **Sec. 6.02 SUBMISSION OF BUDGET AND BUDGET MESSAGE**

As prescribed by the Commission on an annual basis, the Mayor shall submit to the Commission a final budget for the ensuing fiscal year and an accompanying budget message.

## **Sec. 6.03 BUDGET MESSAGE**

The budget shall provide a financial plan of Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems desirable or the Commission may require. The budget shall show in detail the estimated income and the proposed expenditures, including debt service, for the ensuing fiscal year, and other information and supporting schedules as the Commission may deem necessary.

## **Sec. 6.04 ADMINISTRATION OF THE BUDGET**

The Commission shall provide by ordinance the procedures for administering the budget.

## **Sec. 7.01 INDEPENDENT ANNUAL AUDIT**

Prior to the end of each fiscal year, the Commission shall designate a Certified Public Accountant to make an independent audit of accounts and all other financial transactions of the Town government existing at the end of the fiscal year. Reports of said audit shall be made directly to the Commission. Accountants selected to make such audits shall have no personal interest, direct or indirect, in the fiscal affairs of the Town government or of any of its officers. They shall not maintain any accounts or records of the Town's business. The auditors shall post-audit the books and documents kept by the Town and all separate or subordinate accounts kept by any other Office, Agency, or Department of the Town government.

## **Sec. 7.02 PUBLIC MONIES**

All public monies shall be deposited in the name of the Town of Melbourne Village in a bank or banks designated by the Commission. All public monies shall be disbursed by check to be signed by at least one (1) authorized Commission Member and the Mayor, or other method approved by the Commission.

## **Sec. 8.01 FRANCHISES**

The Town shall have the power to grant a franchise to any private or public enterprise for the use of streets and other public places in the furnishing of any public utility or other service to the Town and to its inhabitants.

### **Sec. 9.01 CONDUCT OF ELECTIONS**

The laws, rules, and regulations for the registration of electors and for holding and certifying regular and special municipal elections shall be prescribed by Town ordinance, the same not to be in conflict with the general laws of the State of Florida relating to elections and registrations of persons qualified to vote therein. All elections for the office of Commission member or Mayor shall be conducted on a nonpartisan basis without any designation or political party affiliation.

### **Sec. 9.02 ELECTION REQUIREMENTS**

The candidate obtaining the highest number of votes in a regular municipal election, or a special election held pursuant to this Charter, shall be deemed to have been elected. In the event of a tie vote, the prevailing candidate shall be determined by lot as determined by the Commission, in no event more than fifteen (15) days after the date of the initial election.

### **Sec. 9.03 ELECTORS**

Any person who is a registered Town of Melbourne Village voter, and who resides in the Town of Melbourne Village, shall be an Elector of the Town.

### **Sec. 10.01 RIGHTS OF OFFICERS AND EMPLOYEES PRESERVED**

Nothing in this Charter, except as specifically provided, shall affect or impair the rights or privileges of officers or employees of the Town or of any office, department, board, commission, or agency existing at the time when this Charter shall take effect, and not inconsistent with the provisions of this Charter, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights, or any other rights or privileges of officers or employees of said Town or any office, department, board, commission, or agency thereof.

### **Sec. 10.02 TITLE TO PROPERTY RESERVED**

The title, rights and ownership of property, uncollected taxes, special assessments, dues, claims, judgments, decrees, and choses in action held or owned by the Town of Melbourne Village under any previous Charter shall pass to and be vested in the municipal corporation organized under this Charter.

### **Sec. 10.03 CONTINUITY OF OFFICER, BOARDS, COMMISSIONS, OR AGENCIES**

Any office, department, board, commission, or agency provided for in this Charter with powers and duties the same or substantially the same as those of an office, department, board, commission, or agency heretofore existing shall be deemed to be a continuation of such office, department, board, commission, or agency by which the same were heretofore exercised, and shall have power to continue any business, proceeding, or other matter within its scope.

#### **Sec. 10.04 VALIDATION OF ACTS UNDER PREVIOUS CHARTER**

All official acts, ordinances, and resolutions passed by any previous Town Commission, including all resolutions by which certain unincorporated areas were annexed by the Town, thereby enlarging the corporate limits of the Town, done and adopted prior to the passage of this amended Charter, are hereby approved and ratified.

#### **Sec. 10.05 CHARTER AMENDMENTS AND REVISIONS**

This Charter and any portion thereof may be amended or revised, in whole or in part, at any time by an ordinance passed by the affirmative vote of a majority of the membership of the Commission and ratified by a majority of the votes cast by the qualified electors of the Town at a general election held per Florida Statute.

#### **Sec. 10.06 STATE AND MUNICIPAL LAWS**

All laws of the State of Florida relating to the operation of a municipality shall be fully effective, controlling and superseding all ordinances and resolutions in conflict therewith. Where state law allows, such may be enhanced from time to time as deemed necessary by ordinance. All Town ordinances, resolutions, orders, and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

#### **Sec. 10.07 SEVERABILITY**

If any article, section, or portion of an article or section of this act shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this act or the context in which such article, section, or portion of an article or section so held invalid may appear, except to the extent that an entire article or part of an article or section or part of a section may be inseparably connected in meaning and effect with that portion of the act to which the holding shall directly apply.

#### **Sec. 10.08 EFFECTIVE DATE**

This Charter, except as herein otherwise provided, shall take effect immediately upon becoming a law.