



AGENDA
CHARTER REVIEW COMMISSION
Meeting 2022-02

Tuesday, January 25, 2022 - 6:00 P.M.
Council Chambers, 120 Malabar Road SE, Palm Bay, Florida 32907

CALL TO ORDER:

PLEDGE OF ALLEGIANCE

ROLL CALL:

ADOPTION OF MINUTES:

1. Meeting 2022-01; January 11, 2022.

PUBLIC COMMENTS (Non-agenda Items Only):

Public Comments on Agenda Items – Individuals wishing to address items on the agenda can do so at the time the item is being considered by the Commission. The Chairperson will ask for public comment prior to the Commission taking action on the item. Speakers are limited to three (3) minutes for agenda and non-agenda items each.

NEW BUSINESS:

1. Review and discussion of the City Charter.
 - a. Article III, Legislative
 - b. Article IV, Administrative
 - c. Article V, Qualifications and Elections

ADJOURNMENT:

If an individual decides to appeal any decision made by the Charter Review Commission with respect to any matter considered at this meeting, a record of the proceedings will be required, and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (Section 286.0105, Florida Statutes). Such person must provide a method for recording the proceedings verbatim.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE.

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

If you use assistive technology (such as a Braille reader, a screen reader, or TTY) and the format of any material on this website or documents contained therein interferes with your ability to access information, please contact us. To enable us to respond in a manner most helpful to you, please indicate the nature of your accessibility problem, the preferred format in which to receive the material, the web address of the requested material, and your contact information. Users who need accessibility assistance can also contact us by phone through the Federal Information Relay Service at 1-800-877-8339 for TTY/Voice communication.

City of Palm Bay, Florida
CHARTER REVIEW COMMISSION
Meeting 2022-01

Held on Tuesday, the 11th day of January, at the Palm Bay City Hall Council Chambers, 120 Malabar Road, Palm Bay, Florida.

The meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, 120 Malabar Road, SE, Palm Bay, Florida. The minutes are not a verbatim transcript, but a brief summary of the discussions and actions taken at the meeting.

The meeting was called to order by Mrs. Jones at 6:03 P.M.

ROLL CALL:

MEMBER:	Ken Delgado	Present (Late)
MEMBER:	David Myers	Present
MEMBER:	Phil Weinberg	Present
MEMBER:	Jeffrey McLeod	Present
MEMBER:	William Capote	Present
MEMBER:	Phil Moore	Present
MEMBER:	David Jones	Present
MEMBER:	Jordin Chandler	Present
MEMBER:	Aaron Parr	Absent
MEMBER:	Kay Maragh	Present

ALSO PRESENT:

Patricia Smith, City Attorney; Suzanne Sherman, City Manager; Terese Jones, City Clerk.

PRESENTATION(S):

1. Patricia Smith, City Attorney – Overview of the Florida Sunshine Law and Public Records Act.

The item was presented later in the meeting after New Business.

PUBLIC COMMENTS:

A resident made a general comment.

NEW BUSINESS:

1. Selection of Chair and Vice-Chair.

Motion by Mr. Weinberg, seconded by Ms. Maragh, to select William Capote as Chair.
Motion carried unanimously.

Motion by Mr. Capote, seconded by Mr. Moore, to select Phil Weinberg as Vice-Chair.
Motion carried unanimously.

2. Consideration of Rules of Procedure for the Charter Review Commission.

Mrs. Jones provided a brief overview of the Rules of Procedure.

Motion by Mr. Weinberg, seconded by Mr. Moore, to adopt the Rules of Procedure.
Motion carried unanimously.

3. Discussion of timetable and order for reviewing the City Charter.

Mrs. Jones advised that ballot issues were due to the Supervisor of Elections office by August 22, 2022 and suggested that amendments be submitted to Council in June 2022 in order to meet the deadline. Any member of the Commission, City staff or the public could propose amendments to the City Charter. The Commission would make its recommendations to City Council and Council would then adopt the issues it desired to be placed on the ballot.

Mr. Delgado joined the meeting at approximately 6:10 P.M.

4. Discussion of scheduling meetings.

Mrs. Jones presented the proposed meeting dates which would be held on the 2nd and 4th Tuesday of each month, at 6:00 P.M. Due to the special election in March, those meetings would be held on the 3rd and 5th Tuesday. The Commission concurred with the meeting dates as presented.

Item 1, under Presentations, was heard at this time.

PRESENTATION(S):

1. Patricia Smith, City Attorney – Overview of the Florida Sunshine Law and Public Records Act.

Ms. Smith provided an overview of the Florida Sunshine Law and Public Records Act. She answered questions posed by the Commission.

Mrs. Jones announced that the next meeting would be held on Tuesday, January 25th. The items for review would be as follows: Article III, Legislative; Article IV, Administration; and Article V, Qualifications and Elections.

ADJOURNMENT:

The meeting adjourned at approximately 6:44 P.M.

William Capote, Chair

ATTEST:

Terese M. Jones, City Clerk

ARTICLE III. LEGISLATIVE

Section 3.01 FORM OF GOVERNMENT.

The form of government provided by this charter shall be known as the “council-manager 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 city shall be vested in an elected council, hereinafter referred to as the “council”. It shall enact ordinances, adopt resolutions, adopt budgets, determine policies and appoint a city manager. The city manager shall execute the laws and administer the government of the city. All powers of the city 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.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.02 CITY COUNCIL; COMPOSITION.

There shall be a five (5) member council consisting of a mayor and four (4) other members, who shall be electors of the city.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.03 COMPENSATION.

Effective November 9, 2016, the salary for the office of Mayor shall be at the rate of 20 cents per capita, and the salary for the office of Councilmember shall be set at the rate of 10 cents per capita. The per capita numbers utilized shall be the population as of the date of approval of this revision as set forth in the most recent population estimate of the Bureau of Economic and Business Research of the University of Florida. The annual salary of the Council shall not be increased by more than the increase in the Consumer Price Index, or the annual increase given to City employees, whichever is lower. The annual salary shall be reviewed during the City's annual budget process. No increase in salary shall become effective until October 1.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Amendment adopted by electorate 11-8-16)

Section 3.04 MAYOR AND DEPUTY MAYOR.

The mayor shall preside at meetings of the council, shall be recognized as head of city government for all ceremonial purposes, and by the governor for purposes of military law. The mayor shall be the person upon whom service of process can be made. The mayor shall sign contracts, deeds, and other documents, and shall be the city official

designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. Annually, the mayor shall deliver a state-of-the-city message. At the first council meeting following the first Tuesday after the first Monday in November or following any city run-off election, whichever is later, the council shall elect one (1) of its members as deputy mayor. The deputy mayor shall act as mayor during the absence or disability of the mayor. In case of the death, resignation, or removal of the mayor, the deputy mayor shall serve as mayor until the vacancy of the mayor's office is filled in accordance with subsection 3.062, "Filling of vacancies."

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.05 PROHIBITIONS.

3.051 Appointment and removals. No member of the council shall, in any manner, dictate the appointment or removal of any city administrative officer or employee whom the city manager or any of his subordinates are empowered to appoint. However, the council may express its view and fully and freely discuss, with the manager, anything pertaining to appointment and removal of such officer or employee.

3.052 Interference with administration. Neither the council nor its members shall either direct, interfere, or otherwise deal with city officers and employees who are subject to the direction and supervision of the city manager, except through the city manager. Neither the council nor its members shall give orders to any such officer or employee. However, after reasonable notice to the city manager, individual members of the council may closely scrutinize, by questions and observations, all aspects of city government operations, solely for the purpose of obtaining information to assist the council in the formulation of sound policies to be considered. All recommendations for improvement in city government operation by individual councilmembers shall be made to and through the city manager.

3.053 Holding other office.

(a) No former elected city official, nor any relative of such former elected city official, shall hold any compensated appointive city office or employment until, at least, two (2) years after the expiration of the term for which elected. This provision shall not apply to relatives of any current or former elected city official holding a compensated appointive city office or position of employment prior to November 9, 2016.

(b) For the purposes of this section, "relative" shall mean an individual who is related to the former elected city official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,

stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(Amendment adopted by electorate 11-8-16)

3.054 Conflict of interest. Officers, employees, or elected officials shall not directly or indirectly contract to do any work, render any service or furnish any material or equipment to or for the city with any association, partnership, firm, business entity, person or corporation in which they have a financial interest.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.06 VACANCIES.

The office of a councilmember shall become vacant upon death, resignation, removal from office in any manner authorized by law or by forfeiture of that office, and such vacancy is to be declared, by resolution stating cause, by the remaining members of the council at a regular or special council meeting.

3.061 Forfeiture of office. If, during the term of office, the state commission on ethics finds that a councilmember has violated any provision of this charter 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, such councilmember shall be deemed to have forfeited his office. Forfeiture of such office shall be affirmed and ratified by a resolution duly adopted by the other members of the city council.

3.062 Filling of vacancies. ~~When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled in accordance with the procedures prescribed by ordinance.~~ >>A vacancy of the council shall be filled in one of the following ways:

(1) If there are less than six (6) months remaining in the unexpired term or if there are less than six (6) months before the next regular city election, the council, by a majority vote of the remaining members, shall choose a successor to serve until a newly-elected councilmember is qualified. Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members under either (1) or (2). If one year remains in the term of the vacated seat, at the time of the next regular election, that seat shall be filled by election for the remaining one (1) year;

(2) If there are more than six (6) months remaining in the unexpired term and no regular city election is scheduled within six (6) months, the council shall fill the vacancy on an interim basis as provided in (1), and shall schedule a special

election to be held no sooner than ninety (90) days or more than one hundred eighty (180) days following the date of the vacancy. <<

3.063 Absenteeism.

(1) Absence from four (4) consecutive regular meetings of the council, or a total of six (6) within a twelve (12) month period, shall vacate the seat of the member. The city clerk shall notify the council of the third and fourth consecutive absences or the sixth within a twelve (12) month period of any councilmember.

(2) Absences created by illness, mental or physical disability, written suspension by court order, or other lawful written order or action shall not be considered absences for purposes of this subsection. However, the existence of an illness or mental or physical disability must be established by written medical evidence setting forth in detail the nature and cause of the illness or mental or physical disability and the prognosis thereof.

3.064 Extraordinary vacancies.

(1) In the event that all members of the council are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election as provided in subsection 3.062.

(2) If at any time the membership of the council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members pursuant to subsection 3.062.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Amendment adopted by electorate 11-6-12)

Section 3.07 CITY CLERK.

The council shall appoint an officer of the city who shall have the title of city clerk. The city clerk shall coordinate with the city manager and shall give notice of council meetings to its members and to the public, shall keep the minutes of its proceedings, and perform such other duties as are assigned by this charter or by the council.

3.071 Removal. The council may remove the city clerk by majority vote of all of the councilmembers, by a resolution, which states the cause(s) for removal.

3.072 Compensation. The compensation of the city clerk shall be fixed by the council and shall not be reduced during the city clerk's period of employment except by the consent of the city clerk.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.08 PROCEDURES.

3.081 Meetings. The council shall have regular council meetings at least twice each month, at the city hall or other municipal building, at such times and places as the council may prescribe. Special meetings and workshops may be held at the call of any councilmember and, whenever practicable, upon no less than twenty-four (24) hours verbal and written notice to each member and the public. Such notice shall state the specific purpose or purposes of the meeting. No additional items shall be considered at such special meetings.

3.082 Rules and order. The council shall determine its own rules and order of business.

3.083 Voting. A majority of the council shall constitute a quorum. No action of the council, except as otherwise provided in the preceding sentence and in section 3.06, shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.09 PETITIONS TO AMEND THE CITY CHARTER OR TO ADOPT OR REPEAL ORDINANCES.

(1) The electors of the city shall have the power, by petition, to propose amendments to the city charter not inconsistent with the State Constitution or general law. Upon submission of a petition meeting the signature requirements set forth in subsection 3.092 and certification of same as provided in subsection 3.093, the city council shall submit the proposed amendment to a vote of the electors.

(2) The electors of the city shall have the power, by petition, to propose ordinances to the council not inconsistent with the State Constitution or general law. If the council fails to adopt an ordinance so proposed without any change in substance, such ordinance shall be placed on the ballot for the electorate to either adopt or reject, provided that such power to petition shall not extend to matters relating to the budget or capital program or any ordinance relating to the appropriation of money, method of levy of taxes, zoning, or salaries of city officers or employees.

(3) The electors of the city shall have the power, by petition, to request the council to repeal any adopted ordinance if such repeal is not inconsistent with the State Constitution or general law. If the council fails to repeal such ordinance, it shall be placed on the ballot for the electorate to consider; provided that such power to petition shall not extend to matters relating to the budget or capital

program or any emergency ordinance or ordinance relating to appropriation of money, method of levy of taxes, zoning, or salaries of city officers or employees.

3.091 Commencement of proceedings. Any elector(s) may commence proceedings by filing with the city clerk an affidavit stating that the elector(s) will constitute a committee being responsible to circulate a petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed charter amendment, the proposed ordinance or citing the ordinance sought to be repealed. Within ten (10) days after the affidavit is filed, the city clerk shall issue the appropriate petition blanks to the petitioners' committee. The committee shall be responsible for all costs involved in the petitioning process including any fee required to be paid to the supervisor of elections to verify the petitions. The process to amend the city charter or to adopt or repeal an ordinance shall be completed and the certificate of sufficiency submitted to the city council, as provided herein, not less than ninety (90) days before a special or regular municipal election.

3.092 Petitions.

(1) Number of signatures. All petitions must be signed by at least ten percent (10%) of the electors of the city. They need not be in affidavit form. The petition to amend the charter must be signed by at least ten percent (10%) of the electors of the city of the registered electors as of the last preceding municipal general election or as provided in section 166.031 Florida Statutes as may be amended from time to time. Petitions to propose or repeal ordinances must be signed by at least five percent (5%) of the registered electors as of the last preceding municipal general election.

(2) Form and content. The city clerk shall consult with the supervisor of elections to create a standard form of petition, which shall be used for all proposed charter amendments and proposals to adopt or repeal an ordinance. Each page of a petition shall be numbered, shall be uniform in size and style, shall be executed in ink, and shall be followed by the address of the person signing. Each petition circulated shall contain or have attached to it, at least once, the full text of the proposed charter amendment, the proposed ordinance, or the ordinance sought to be repealed. Each page provided for signatures shall contain the caption of either the proposed charter amendment, the proposed ordinance, or the ordinance sought to be repealed.

(3) Affidavit of circulators. Each petition shall have attached to it, when filed, an affidavit executed by the circulator indicating the number of pages and the number of signatures contained therein, that the circulator personally circulated the paper, that all the signatures were affixed in the circulator's presence, that the

circulator believes them to be signatures of electors, and that each elector had an opportunity before signing to read the full text of the proposed charter amendment, the proposed ordinance or the ordinance sought to be repealed.

3.093 Certificate of clerk; amendment.

(1) Within ten (10) days after the petition has been filed, the city clerk shall submit it to the county supervisor of elections or other official designated by city council to certify the number of registered voters who signed it. The city clerk, supervisor of elections or other official designated by city council shall use the signature verification process for petitions set forth in section 99.097, Florida Statutes, as may be amended from time to time. The city clerk shall, within three (3) working days of certification or after receipt of certification, send a copy of the certificate to the committee, by certified mail, indicating its sufficiency or insufficiency and the grounds therefore.

(2) Grounds for insufficiency are only those specified in subsection 3.092. A petition certified insufficient may be amended once if the committee files with the city clerk (i) a notice of intention to amend the petition within two (2) working days after receiving the copy of the certificate and (ii) an amended petition within ten (10) working days after receiving the copy of such certificate. Such amended petition shall comply with the requirements of subsection 3.092 and the city clerk shall, within three (3) working days after receipt of the amended petition, notify the committee either that it is sufficient or insufficient and the reasons for same. If the insufficiency is based upon the lack of requisite signatures, within five (5) working days after it is filed, the city clerk shall examine or submit the amended petition to the supervisor of elections or the official designated by city council to determine the number of registered voters who signed it. The city clerk shall, within three (3) working days after certification or receipt of the certification, send a copy of the certificate to the committee by certified mail as in the case of an original petition.

(3) If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient, the city clerk shall present a certificate to the council, at the next regular or special council meeting, and the certificate shall then be a final determination as to the sufficiency or insufficiency of the petition.

3.094 Action by council. When a petition to amend the charter or to adopt or repeal an ordinance has been determined sufficient, the council shall consider such amendment, adoption, or repeal. If the council fails to adopt a proposed ordinance without any change in substance or fails to repeal an ordinance, both or either of them shall be submitted to the electors of the city in accordance with subsection 3.095. If a petition to amend the

charter is deemed sufficient, the proposed amendment shall be submitted to the electors of the city in accordance with subsection 3.095.

3.095 Submission to electors. The city council shall submit the charter amendment, adoption or repeal of an ordinance to the electorate at a special or regular municipal election held no less than ninety (90) days nor more than one hundred eighty (180) days from the date the supervisor of elections' certificate of sufficiency is presented to the city council. A copy of the ordinance to be adopted or repealed or a copy of the proposed charter amendment, or a summary thereof, shall be published in a newspaper of general circulation once in the fifth week prior to the election and once in the third week prior to the election. The full text of an ordinance to be adopted or repealed and charter amendment shall be posted at the polls.

3.096 Results of elections.

(1) If a majority of the voting electors vote in favor of a proposed ordinance, it shall be considered adopted upon certification and approval of the election results and shall be treated as an ordinance adopted by the council. In the event conflicting ordinances are approved at the same election, the one receiving the greater number of "yes" votes shall become effective.

(2) If a majority of the electors vote to repeal an ordinance, the ordinance shall be considered repealed upon certification and approval of the election results.

(3) If a majority of the voting electors vote in favor of a proposed amendment to the city charter, the amendment to the charter shall become effective upon certification by the state of Florida. The city clerk shall submit the results of the election to the state within five (5) days after the city council certifies the results. In the event conflicting amendments are approved at the same election, the one receiving the greater number of "yes" votes shall become effective.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Amendment adopted by electorate 11-6-12, 11-05-19)

Section 3.10 ORDINANCES AND RESOLUTIONS.

Every proposed ordinance or resolution shall be introduced in the final written or printed form required for adoption. The enacting clause of ordinances shall recite: "Be it enacted by the city council of the city of Palm Bay, Brevard County, Florida." A proposed ordinance may be read by title, or in full, on at least two (2) separate days.

A proposed ordinance may be amended at either reading. However, no ordinance shall be amended at the second or later reading so as to change its intent without a

reading at least ten (10) days later. The council shall provide for public hearings or for the publication of notice concerning the subject matter of any proposed ordinance or amendment as provided by general law. Ordinances and resolutions shall become effective upon passage unless otherwise specified therein. Every ordinance or resolution shall, upon final passage, be authenticated by the mayor and the city clerk, and shall be recorded and published as the council shall prescribe.

3.101 Emergency ordinances. Notwithstanding the provisions of the foregoing sections, the council may enact emergency ordinances to meet serious public emergencies, as determined by the city council, affecting the general welfare, health or safety of the city or its inhabitants. An emergency ordinance shall be introduced in the form and manner prescribed for other ordinances except that it shall be plainly designated as emergency ordinance and the conditions constituting such emergency shall be stated therein. It may be adopted or rejected, with or without amendment, at the meeting at which introduced. Emergency ordinances shall expire thirty (30) days after enactment unless sooner specified therein.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.11 CITY ATTORNEY.

3.111 Appointment or employment. The city council shall appoint or employ a city attorney and such assistant attorney(s) as required to act as legal advisor(s) to the council and officials of the city as designated in [subsection] 3.123(b) and serve at the pleasure of the council.

3.112 Qualifications. The city attorney shall be a practicing attorney with at least five (5) years' experience and practice in the courts of the state of Florida.

3.113 Duties.

(a) General. The city attorney, and/or his assistant attorney(s), shall perform such professional duties as may be required by ordinance or resolution of the council, or as prescribed for city attorneys under the general laws of the state of Florida, that are not inconsistent with the specific provisions of this charter.

(b) Legal advisor. The city attorney, and/or assistant attorney(s), shall provide required legal advice to the council and to the city manager. Officially constituted boards, committees, and commissions of the city, relating to their official duties, may obtain legal advice upon the approval of the council.

3.114 Remuneration. The council shall determine the remuneration to be paid the city attorney and/or assistant attorney(s).

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 3.12 CODES OF TECHNICAL REGULATIONS.

The council shall adopt appropriate, standard codes of technical regulations by reference thereto in an adopting ordinance.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

ARTICLE IV. ADMINISTRATIVE

Section 4.01 CITY MANAGER.

There shall be a city manager who shall be the chief executive and administrative officer of the city. The manager shall be responsible to the council for the administration of all city affairs placed in the manager's charge by or under this charter.

4.011 Appointment. The council shall appoint a manager by a majority vote of all councilmembers. The manager shall be selected solely on the basis of administrative and executive qualifications. At the time of appointment, the manager need not be a resident of the city or state. However, should the manager change residency subsequent to his appointment, the manager shall reside within the city during his tenure.

4.012 Removal. The council may remove the manager by majority vote of all the councilmembers, by a resolution, which states the cause(s) for removal, unless by contract, cause(s) is not required.

4.013 Compensation. The compensation of the manager shall be fixed by the council and shall not be reduced during the manager's period of employment except by the consent of the manager.

4.014 Bond. The city manager shall furnish a surety bond to be approved by the council. The premium of the bond shall be paid by the city. The amount of the bond shall be fixed by the council.

4.015 Powers and duties. The city manager shall:

- (a) Appoint, and when deemed necessary for the good of the city, suspend or remove city 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 manager may authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.
- (b) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law.

- (c) Attend council meetings unless excused by council, and then he should have a designated replacement.
- (d) Ensure that all laws, provisions of this charter and acts of the council, subject to enforcement by the manager or by officers subject to the manager's direction and supervision, are faithfully executed.
- (e) Prepare and submit the annual budget, budget message, and capital program to the council in a form provided by ordinance.
- (f) Submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.
- (g) Make such other reports as the council may require concerning the operations of city departments, offices and agencies, subject to the manager's direction and supervision.
- (h) Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as deemed desirable.
- (i) Execute contracts on behalf of the city pursuant to the provisions of appropriation ordinances or resolutions.
- (j) Perform such other duties as are specified in this charter or may be required by the council.

4.016 Supervision of departments. 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 and offices of the city. All departments, offices and agencies under the direction and supervision of the manager, shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of the council, the manager may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

4.017 Administrative code. The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 4.02 ACTING CITY MANAGER.

By letter filed with the council, the city manager shall appoint a qualified city administrative officer to exercise the powers and perform the duties of manager during the city manager's temporary absence or disability. During such temporary absence or disability, the council may revoke such appointment at any time and appoint another officer of the city to serve until the city manager shall return or the disability shall cease.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 4.03 PERSONNEL SYSTEM.

All appointments and promotions of city officials and employees, except those specifically exempted by ordinance, shall be made solely on the basis of merit and qualifications demonstrated by examination or other evidence of competence and to this end, the council shall, by ordinances, establish personnel policies. The city manager shall establish personnel procedures and rules consistent with these policies.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 4.04 FISCAL YEAR.

The fiscal year of the city shall begin on the first day of October and end on the last day of September.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 4.05 INDEPENDENT ANNUAL AUDIT.

Prior to the end of each fiscal year, the council shall designate certified public accountants to make an independent audit of accounts and all other financial transactions of the city government existing at the end of the fiscal year. Reports of audit shall be made directly to the council. Accountants selected to make such audits shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business. The auditors shall post-audit the books and documents kept by the city and all separate or subordinate accounts kept by any other office, agency or department of the city government. The same auditor or auditing firm shall not perform the city audit for more than four (4) consecutive years.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 4.06 FINES, FEES, FORFEITURES AND PENALTIES.

The city shall have the power to impose and collect fines, fees, forfeitures and penalties for enforcement, administration and violation of the provisions of this charter and the ordinances of the city in a manner consistent with law, and to otherwise collect fines, fees, forfeitures, and penalties as may be provided by law. All such sums collected shall be paid to the city finance director, to be deposited in the proper accounts as provided by law.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

ARTICLE V. QUALIFICATIONS AND ELECTIONS

Section 5.01 NONPARTISAN ELECTIONS.

All elections for councilmembers shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any candidate.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 5.02 QUALIFICATIONS.

Candidates for the office of city council shall be a resident of the city and shall have been for at least two (2) years immediately preceding the election, shall be a registered voter residing at a city address, and shall qualify for such office by complying with the Florida Statutes and in such manner as may be prescribed by ordinance and shall continue to be a resident and an elector of the city during the term of office.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Amendment adopted by electorate 11-6-12, 11-8-16)

Section 5.03 FORM OF BALLOTS.

The form of the ballot shall be determined by state law and municipal ordinance.

A charter amendment or other municipal issue to be voted upon shall be presented for voting as prescribed by state law.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 5.04 ELECTIONS.

5.041 Councilmembers. A councilmember shall be elected to a specific seat on the council. The councilmember shall be elected by receiving the highest vote total of the votes cast in the election for a designated council seat. In the event of a tie vote in a special or regular election in which two (2) or more candidates are seeking the same designated seat on the council, a run-off election will only be held if breaking the tie would determine the successful candidate. Each elective officer shall hold such office until a successor is elected and qualified. Absentee voting shall be permitted in all elections as provided by law.

5.042 Elections and terms of office. A primary election and a general election are to be held pursuant to law. The regular or general election of councilmembers shall be held on the first Tuesday after the first Monday of November. Councilmembers shall be elected to a four (4) year term of office and limited to three (3) consecutive four (4) year terms. For the purpose of this limitation, a partial term shall be considered a full term,

except for appointments of less than one (1) year. No councilmember may appear on the ballot for reelection if by the end of the current term of office, the councilmember will have served (or, but for resignation, would have served) in that office for twelve (12) consecutive years. All councilmembers shall be elected at-large. The mayor and two (2) other councilmembers, Seats 2 and 3, shall be elected in the same year as the presidential election. The two (2) additional councilmembers, Seats 4 and 5, shall be elected in the following even year.

(Amendment adopted by electorate 11-8-16)

5.043 Primary elections. Primary Elections shall be held on the Tuesday nine weeks prior to the general election or such other date as established by applicable general law of the state for primary elections.

(a) Should there be more than two (2) qualifying candidates for Mayor or for a given Council seat, their names will be placed on the primary ballot. The two (2) primary candidates receiving the highest number of votes shall be the candidates in the general election. The candidate receiving the highest number of votes in the general election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three (3) qualifying candidates for Mayor or for a given Council seat, their names will not appear on the primary election ballot but they will appear on the general election ballot. If a candidate for Mayor or for a given Council seat receives more than fifty percent (50%) of the vote in a primary election, then said candidate shall be declared elected to the office and no names shall appear on the general election ballot.

(Amendment adopted by electorate 11-8-16)

5.044 Election returns. Election results shall be determined, certified, and published as provided by law. A regular or special meeting shall be held within three (3) working days following the receipt by the city clerk of the official election results from the supervisor of elections at which those councilmembers present shall be given a certified copy of the official canvass of the election and the city clerk or the clerk's designee shall announce the election results. Immediately thereafter the newly elected official or officials shall then be administered the oath of office.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Ord. 2002-48, passed 8-22-02) (Adopted by electorate 11-5-02) (Amendment adopted by electorate 11-6-12)

Section 5.05 RECALL.

Councilmembers may be removed from office by the electors of the city, through recall, as provided by law. The procedure for recall and filling of vacancies thereunder shall be in accordance with state law.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)

Section 5.06 ELECTION DISTRICTS (VOTING PRECINCTS).

5.061 Number of precincts. The city shall be divided into voting precincts. The boundaries of such precincts shall correspond with the boundaries of the county voting precincts.

5.062 Registration of electors. Registration of electors to qualify them to vote in all elections shall be determined as provided by Florida Statutes.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92)