



AGENDA

CHARTER REVIEW COMMISSION

**Meeting No. 2016-02
Thursday – June 30, 2016 - 6:30 P.M.
City Hall Council Chambers
120 Malabar Road, Palm Bay, FL 32907**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Organizational Meeting No. 2016-01; June 27, 2016.

PUBLIC COMMENTS:

Public comments will be heard by the Commission at the time an agenda item is presented for consideration or discussion. Speakers are limited to three (3) minutes each.

REPORTS:

1. Chairman.
2. City staff.
3. Commission members.

UNFINISHED BUSINESS:

1. Review and adoption of Charter Review Commission's Rules of Procedures.

NEW BUSINESS:

1. Review and discussion of the City Charter.

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 (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

City of Palm Bay, Florida

CHARTER REVIEW COMMISSION

Meeting No. 2016-01

Held on Monday, the 27th day of June 2016, 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 meeting was called to order by Mrs. Jones at 6:30 P.M.

ROLL CALL:

MEMBER:	Donny Felix	Present
MEMBER:	Cynthia Moore	Present
MEMBER:	Kenneth Delgado	Present
MEMBER:	Robert Llewellyn	Present
MEMBER:	Ken Greene	Present
MEMBER:	Maria DeChristofano	Present
MEMBER:	Philip Weinberg	Present
MEMBER:	David Myers	Absent
MEMBER:	Bill Battin	Present
MEMBER:	James Boothroyd	Present

ALSO PRESENT:

Gregg Lynk, City Manager; Terese Jones, City Clerk; Patricia Smith, Deputy City Attorney; Jeff Bailey, Deputy Mayor; and Tres Holton, Councilmember.

INTRODUCTION OF MEMBERS:

Commission members were introduced and welcomed by staff.

PRESENTATION:

1. Overview of the Florida Sunshine Law and Public Records Act – Office of the City Attorney.

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

BUSINESS:

1. Discussion of time table, procedures, and order for reviewing the City Charter.

Mrs. Jones advised that recommended revisions had to be submitted to Council for consideration at its meeting on July 21st. The deadline for submission of items to the Supervisor of Elections for placement on the ballot was August 22nd.

2. Discussion on scheduling meetings - day and time.

The Commission concurred to hold its meetings on the following dates:

Thursday, June 30th
Tuesday, July 5th
Wednesday, July 6th
Monday, July 11th
Monday, July 12th
Monday, July 18th
Tuesday, July 19th
Wednesday, July 20th

Additional dates would be scheduled as needed. Prior to distribution of an agenda packet, Commission members would confirm their availability with the Office of the City Clerk to ensure there was a quorum.

Mr. Greene asked how a tie vote affected the decision-making process. Mrs. Jones advised that a tie vote would constitute a failed motion. However, the Commission, by majority vote, could have the item or issue brought back for reconsideration when a full Commission was present.

3. Election of Chairperson and Vice Chairperson.

Motion by Mr. Llewellyn, seconded by Mr. Greene, to nominate Philip Weinberg as the Chairman. Motion carried unanimously.

Motion by Mr. Llewellyn, seconded by Mr. Delgado, to nominate James Boothroyd as the Vice Chairman. Motion carried unanimously.

4. Review of Charter Review Commission's Rules of Procedures.

The Commission modified the Rules of Procedures as follows:

Rule 4. Call of Notice of Meetings.

Motion by Mr. Llewellyn, seconded by Ms. DeChristofano, to revise the third sentence as follows:

“Special meetings may be called by the Chairman of the Commission, or by any ~~seven (7)~~ six (6) members of the Commission with at least one member from each councilmember attending and require the ~~seven (7)~~ six (6) members of the Commission requesting a special meeting to do so in writing and filed with the CRC staff person.”

Motion carried unanimously.

Note: The revision from seven (7) members to six (6) members applied Rule 16, Rule Amendments; and Rule 17, Charter Amendments.

Rule 5. Agenda for Regular Meetings (V. Public Comment).

Mr. Battin explained that with regard to public comments, individuals may wish to speak under the specific topic of discussion versus only at the beginning of the meeting. He felt it should be treated like the Council meetings, in which the item would be presented, the Chairman would ask if anyone wanted to speak on the item, then it would be brought to the Commission for discussion and a vote. Mr. Weinberg suggested moving public comments after New Business. Mrs. Jones advised that pursuant to law, public comments must be heard prior to the Commission taking action on any items. There was discussion on the time limit for public comments. Mr. Weinberg said that it was unnecessary for anyone to complete a speaker card. He would acknowledge individuals that wish to speak and would not limit them on same.

Mr. Llewellyn asked if public comments could be extended to Palm Bay residents only. Mrs. Smith advised that all meetings were open to the public, regardless of residency. Mr. Llewellyn asked that individuals be required to state their name and address for the record.

Motion by Mr. Greene, seconded by Mr. Felix, to allow public comments after discussion of any agenda item and prior to the Commission making its decision. Mr. Delgado felt that discussion by the Commission should take place before and after any public comments on an item. Mr. Weinberg advised that, prior to the vote, he would ask if there was any further discussion from the Commission. Motion carried unanimously.

Rule 5. Agenda for Regular Meetings (inclusion of Invocation).

Mr. Llewellyn asked that the meetings include an invocation. Some Commissioners disagreed and explained their reasons for same.

Motion by Mr. Llewellyn, seconded by Mr. Boothroyd, to include invocations on the agenda. Motion failed with members voting as follows:

Mr. Felix	Yea
Ms. Moore	Nay
Mr. Delgado	Yea
Mr. Llewellyn	Yea
Mr. Greene	Nay
Ms. DeChristofano	Nay
Mr. Weinberg	Nay
Mr. Battin	Nay
Mr. Boothroyd	Yea

Rule 17. Charter Amendments.

Mr. Llewellyn questioned whether the suggestions by the Commission would be considered collectively or individually by City Council. Mr. Weinberg said it could be done either way. He advised that, pursuant to Florida Statutes, City Council could amend the charter without a Charter Review Commission.

Mr. Llewellyn asked if each revision would be listed separately on the ballot or lumped together as one item. Mrs. Jones advised that the tentative plan was to place the entire charter, with all approved revisions, as one issue on the ballot.

Rule 8. Proxy Voting.

Motion by Mr. Battin, seconded by Ms. DeChristofano, to modify the language as follows:

“No member of the Commission or any of its Committees shall have the power to vote by proxy. ~~Only those members physically present shall be entitled to vote.~~”

Motion carried unanimously.

Rule 19. Procedure for Presenting Charter Amendment Proposals.

Motion by Mr. Delgado, seconded by Mr. Felix, to modify the following provision as follows:

“c. The Commission shall hear any public comment regarding the proposal from any member of the public who ~~has registered~~ wishes to speak with respect to the specific proposal.”

Motion carried unanimously.

Mr. Weinberg announced that the next meeting would be held on Thursday, June 30, 2016, at 6:30 P.M.

Mr. Weinberg asked that all Commissioners review the City Charter, as well as those of surrounding municipalities. Mr. Lynk suggested that the Commission also review cities that have faced challenges similar to Palm Bay, such as General Development Corporation (GDC) communities. Mr. Llewellyn asked that Mr. Lynk educate the Commission on the other GDC communities. Mr. Lynk would meet individually with the Commission, if desired.

Mr. Battin wanted to know the objectives of City Council for the City Charter so that the Commission could make the best recommendations. Mr. Lynk felt that the Commission members should converse with the councilmember that appointed them and receive guidance with regard to that councilmember's vision for the charter.

ADJOURNMENT:

There being no further business, the meeting adjourned at the hour of 8:40 P.M.

Philip Weinberg, Chairman

ATTEST:

Terese M. Jones, City Clerk

**Rules of Procedure
Palm Bay Charter Review Commission**

Adopted _____

- Rule 1. Public Meeting
- Rule 2. Citizens Participation at Meetings
- Rule 3. Place of Meetings
- Rule 4. Call and Notice of Meetings
- Rule 5. Agenda for Regular Meetings
- Rule 6. Recording of Minutes
- Rule 7. Quorum
- Rule 8. Proxy Voting
- Rule 9. Voting Generally
- Rule 10. Official Rule of Order
- Rule 11. Duties of the Chairman
- Rule 12. Duties of the Vice-Chairman
- Rule 13. Duties of the CRC staff person
- Rule 14. Committees
- Rule 15. Policy on Publicity
- Rule 16. Rule Amendments
- Rule 17. Charter Amendments
- Rule 18. Absences; Suspension; Removal
- Rule 19. Procedure for Presenting Charter Amendment Proposals

Rule 1. Public Meetings: All meetings of the Commission, including all meetings of its Committees, shall be open to the public.

Rule 2. Citizen Participation at Meetings: The Commission will allow public comment on all substantive agenda items. Under the agenda item of "Public Comment" any and all interested citizens shall be afforded an opportunity to comment on matters before the Commission or any Committees. The remarks of any citizen should be germane to the agenda or matters to come before the Commission. Each agenda shall include and prescribe a certain portion of the meeting at which "Public Comment" may be made. The Commission may impose reasonable limitations on time allotted to speakers. Each citizen addressing the Commission is asked to avoid being redundant. Citizen's comments will be limited to three (3) minutes in the interest of fairness to all citizens desiring to be heard. This requirement may be waived at the discretion of the Charter Review Commission by majority vote of members.

Rule 3. Place of Meetings: The location of meeting places shall be within the corporate limits of the City of Palm Bay. The meetings of the Commission or Committees should be at a meeting place accessible to the public and large enough to accommodate not only the Commission or Committee, as the case may be, but also interested citizens.

Rule 4. Call and Notice of Meetings: Date, time and place of each regular meeting of the Commission shall be announced at the preceding regular or special meeting of the Commission, and publicly posted in accordance with City of Palm Bay policy. The agenda of each regular or special meeting shall include the scheduling of the date of the next regular meeting. Special meetings may be called by the Chairman of the Commission, or by any six (6) members of the Commission with at least one member from each councilmember attending and require the six (6) members of the Commission requesting a special meeting to do so in writing and filed with the CRC staff person. The CRC staff

person shall be responsible for e-mailing a notice of the date, time and place of meetings to members of the Commission. All such notices shall be emailed to the members of the Commission at their addresses noted on the Commission Membership List and kept by the CRC staff person. It shall be the responsibility of any member of the Commission to notify the CRC staff person of any change of address. The Chairman of each Committee shall be responsible through the CRC staff person, for giving sufficient notice of Committee meetings. A notice of special meetings of the entire Commission shall be given in the same manner as notices of regular meetings, except that the notice of a special meeting shall include the purpose for the call of such special meeting.

Rule 5. Agenda for Regular Meetings: The agenda for regular meetings of the Commission shall be generally as follows, subject to amendment or revision by the Commission Chairman:

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
- V. Public Comment
- VI. Reports:
 - A. Chairman
 - B. CRC Staff Person
 - C. Other Members
- VII. Introduction of Guests and Their Presentations (if applicable)
- VIII. Reports of Committees
- IX. Unfinished Business
- X. New Business
- XI. Adjournment

Rule 6. Recording of Minutes: Meetings of the Commission shall be recorded on recording machines. The recordings of all such meetings shall be preserved as required by law. Failure to record a meeting shall not affect the validity of any proceeding. The CRC staff person shall be responsible for ensuring that a recording apparatus is available at each meeting of the Commission. The CRC staff shall further be responsible for the safeguarding of the recordings of such meetings. In addition to the recording of the meetings, the CRC staff shall take minutes of the proceedings of the Commission and the Chairman of each Committee or a person designated by such Chairman shall take minutes at all proceedings of the Committee meetings. All records of the Commission, including the recordings of meetings, shall be made available to the public during normal business hours. Minutes of all the Committee proceedings shall be filed with the CRC staff person at least once per month.

Rule 7. Quorum: A majority of the members of the Commission or Committee shall constitute a quorum.

Rule 8. Proxy Voting: No member of the Commission or any of its Committees shall have the power to vote by proxy.

Rule 9. Voting Generally: Each member present shall vote, unless a conflict of interest exists, in which case said conflict shall be publicly stated prior to the vote and filed in writing with the CRC staff person, as provided by law.

Rule 10. Official Rules of Order: Except as otherwise provided in these Rules and Policies, Robert's Rules of Order Revised (11th Edition) may apply in matters of procedural conflict for the Commission and Committees.

Rule 11. Duties of the Chairman: The Chairman shall:

- a. Preside at all meetings of the Commission
- b. Serve as speaker for functions and activities.
- c. Be charged with the responsibility of making appointments of all persons on committees.
- d. Call special meetings when necessary.

Rule 12. Duties of the Vice-Chairman: The Vice-Chairman shall perform the duties of the Chairman in the Chairman's absence or inability to serve.

Rule 13. Duties of the CRC staff:

- a. Keep accurate minutes of all Commission proceedings.
- b. Be custodian of all records of the Commission.
- c. Keep an address and attendance roster.
- d. Prepare, dispatch, file, and otherwise process all correspondence approved by a Member of the Commission for the Commission as a whole.
- e. Make all minutes available to the public and open for inspection at all reasonable times. The attendance roster shall likewise be open for inspection by any member and by the public at any reasonable time.
- f. Provide for the reproduction or copying of such records as may be requested by the public on a reasonable period of time and at a rate consistent with City of Palm Bay policy.
- g. Maintain accurate records showing the nature, purpose, and amount of all expenditures made on behalf of the Commission.
- h. Coordinate with the Office of the City Manager in connection with the proof and filing of all disbursement requests and other administrative requirements
- i. Perform other duties as prescribed by the Chairman.

Rule 14. Committees: The Commission may establish Committees as it sees fit to plan and administer ministerial functions of the Commission, or to investigate and report to the full Commission on the studies of special departments or functions of the existing or proposed government, or for any other lawful purpose; provided that no Committee shall have any final authority vested by law in the full Commission.

Rule 15. Policy on Publicity: Every effort shall be made to insure that the proceedings of the Commission are made available to the media with the goal of seeking maximum public participation in the review process. No attempt shall be made to inhibit the normal processes of the media. The Chairman of the Commission or designee shall be responsible for announcing the position of the Commission to the public and news media. Members of the Commission may make public or private statements of their personal feelings, attitudes, or beliefs at any time. In making such statements, however, members of the Commission shall on every occasion make an affirmative statement that they are speaking as an individual and not on behalf of the Commission as a whole.

Rule 16. Rule Amendments: These rules and policies shall be the by-laws of the Commission and may be amended by an affirmative vote of six (6) of the members of the Commission with at least one member appointed by each councilmember present.

Rule 17. Charter Amendments: For a charter amendment recommendation to be transmitted to the City Council for placement on the ballot for voter approval or denial, six (6) members of the CRC must vote to approve it with at least one member appointed by each councilmember present. In the case of failure of at least one member appointed by each councilmember to attend a meeting at which the transmittal of such a recommendation is on the agenda, the Commission may recess the meeting to reconvene at a date and time certain. The Chair shall notify the absent member or members of that date and time. If the member or members are not present at the time of reconvening the Commission may, with the concurrence of six (6) members, approve and transmit the charter amendment recommendation.

Rule 18. Absences: Absences may be excused by the Chair for good cause. The CRC may review and ratify or overrule the Chair's determination of good cause. If any member of the CRC is absent for three consecutive meetings without good cause, the CRC shall notify the City Council who may take action to suspend or remove the member pursuant to Section 112.501, Florida Statutes.

Rule 19. Procedure for Presenting Charter Amendment Proposals: The procedure for presenting Charter Amendment Proposals shall be as follows:

- a. The member of the Commission, City staff or a resident of the City of Palm Bay making the proposal shall introduce the proposal to the Commission.
- b. The members of the Commission shall discuss the proposal presented.
- c. The Commission shall hear any public comment regarding the proposal from any member of the public who wishes to speak with respect to the specific proposal.
- d. The Commission shall have further discussion regarding the proposal, if necessary.
- e. A member of the Commission may then make a motion concerning the proposal.

Adopted:

Revised:

CHARTER

Section

Preamble

Article I. Creation, Powers, and Definitions

- 1.01 Creation, powers, and definitions
- 1.02 Incorporation
- 1.03 Extraterritorial powers
- 1.04 Construction
- 1.05 Succession
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Article II. Boundaries

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Article III. Legislative

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- 3.02 City council; composition
- 3.03 Compensation
- 3.04 Mayor and deputy mayor
- 3.05 Prohibitions
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Article VI. Taxes and Fees

- 6.01 Taxes
- 6.02 Special assessments
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Article VII. City Borrowing

- 7.01 Authority to borrow
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Article VIII. Public Safety

- 8.01 Police department
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- 9.01 Charter review commission
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- 10.01 Conflicting laws and ordinances
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PREAMBLE

We, the citizens of this city, 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 God given rights of life, liberty, and the pursuit of happiness, do hereby adopt this as our charter for the city of Palm Bay, in the county of Brevard, state of Florida.

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

Statutory reference:

Municipal charter and charter amendment, see Fla. Stat. §§ 166.01 et seq.

ARTICLE I. CREATION, POWERS, AND DEFINITIONS

Section 1.01 CREATION, POWERS, AND DEFINITIONS.

The existing municipal corporation known as the city of Palm Bay, Brevard County, Florida, is hereby continued and reestablished. It shall have and may exercise all governmental, corporate and proprietary powers under the Constitution, general and special acts of the state of Florida as fully and completely as if specifically enumerated in this charter to enable it to conduct municipal government, perform municipal functions and render municipal services.

Wherever the word "city" shall appear in this charter, it shall be construed to mean the "city of Palm Bay". Wherever the word "manager" shall appear in this charter, it shall be construed to mean the "city manager". Wherever the words "council," "city council", or "city of Palm Bay" shall appear in this charter, it shall be construed to mean "the mayor and the other councilmembers", unless specifically excepted by other provisions of this charter.

When any reference herein is made to any gender, such reference shall be deemed to include either masculine, feminine or neuter, as appropriate, and any reference herein to any number shall be deemed to include both singular and plural where the context of the provisions of this document shall permit or require.

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

Section 1.02 INCORPORATION.

The existing municipal corporation known as the city of Palm Bay, Brevard County, Florida, is hereby continued and reestablished. The inhabitants of the territory hereinafter described shall constitute a body politic and corporate in perpetuity:

Begin at a point on the west channel of the Indian River which point of beginning is projected from and parallel to the north boundary line of Section 31, Township 28 South, Range 38 East, from said point of beginning run west and along the north boundary line of Section 31, said township and range, to its point of intersection with the western right-of-way boundary of U.S. Highway No. 1 (Florida State Road No. 5, Road Section No. 70010-277 per right-of-way map dated 3-27-61); thence run southerly along said western right-of-way boundary a distance of 229.57 feet more or less to the point of intersection with the northern boundary of Riverview Homes Subdivision as recorded in Plat Book 13, Page 3, of the Public Records of Brevard County, Florida; thence run westerly along said northern boundary line a distance of 290.57 feet to a point; thence run northwesterly on a bearing of N 08°34'13" W a distance of 233.87 feet to a point of intersection with the northern boundary of said Section 31; thence run west along the northern boundary of said Section 31 and continuing across the north boundary line of Section 36 and Section 35, all in Township 28 South, Range 37 East, on to the NW corner of Lot 27, Section 35, Township 28 South, Range 37 East; thence south to the NE corner of Lot 7 of Section 35, Township 28 South, Range 37 East; thence west to the NE corner of Lot 3 of Section 34, Township 28 South, Range 37 East; thence south to the SE corner of Lot 3 of said Section 34; thence west to the NW corner of Lot 29, Section 3, Township 29 South, Range 37 East; thence south to the SW corner of Lot 20 of said Section 3; thence west to the NW corner of Lot 12 of said Section 3; thence south to the SW corner of Lot 12 of said Section 3; thence west to the NW corner of Lot 6 of said Section 3; thence south to the SW corner of Lot 6 of said Section 3; thence West to the SW corner of said Section 3, said SW corner of Section 3 being the NW corner of said Section 10, Township 29 South, Range 37 East; thence south along the east line of Section 9, Section 16, Section 21, Section 28, and Section 33, all in Township 29 South, Range 37 East, to the NW corner of the SW¹/₄ of Section 34; thence east along the north line of the SW¹/₄ of Section 34 to the NE corner of the SW¹/₄ of said Section 34; thence south along the east line of the SW¹/₄ of said Section 34 to the south line of said Section 34; thence west along the south line of said Section 34, Section 33, Section 32, and Section 31, all in Township 29 South, Range 37 East, and continue west along the south line of Section 36, Section 35, and Section 34, Township 29 South, Range 36 East, to the SW corner of said Section 34, Township 29 South, Range 36 East; thence north along the west line of Section 34, Section 27, Section 22, Section 15, Section 10, and Section 3, all in said Township and Range to the SW corner of the NW¹/₄ of said Section 3; thence east long [along] the south line of the NW¹/₄ of said Section 3 to the SE corner of the NW¹/₄ of said Section 3; thence north along the east line of the NW¹/₄ of said Section 3 to the north line of Section 3, Township 29 South, Range 36 East, and the south line of Section 34, Township 28 South, Range 36 East; thence west along said south line of Section 34, Section 33, and Section 32 to the SW corner of the E¹/₂ of Section 32, of said Township and Range; thence north along the west line of said E¹/₂ of Section 32 to the north line of said Section 32; thence east along the north line of said Section 32 and Section 33 to the NW

corner of the E¼ of the NE¼ of the NW¼ of said Section 33; thence south along the west line of said E¼ of the SW corner thereof; thence east along the south line thereof to the west line of the E½ of said Section 33; (there is expressly excepted from the corporate limits herein established the following described property: The N¼ of the SW¼ of the SW¼ of Section 33, Township 28 South, Range 36 East); thence run north along the west line of the E½ of Section 33, Section 28, and Section 21, all in Township 28 South, Range 36 East, to the north line of said Section 21; thence east along the north line of Section 21, Section 22, and Section 23 of said Township and Range, to the NE corner of said Section 23; thence south along the east line of said Section 23, to the SE corner of the NE¼ of said Section 23; thence east along the north line of the S½ of Section 24 of said Township and Range, to the NE corner of the S½ of said Section 24; thence continue east along the north line of the S½ of Section 19, Section 20, and Section 21, Township 28 South, Range 37 East, to the SW corner of Lot 17 of Section 21, Township 28 South, Range 37 East; thence north along the west line of said Lot 17; thence east along the south line of the north 735 feet of said Lot 17 to the east line of Section 21, Township 28 South, Range 37 East; thence north along the east line of said Section 21 to the SE corner of the north 435 feet of said Lot 17; thence west along the south line of the north 435 feet of said Lot 17 a distance of 280 feet; thence north and parallel with the east line of Lot 17 a distance of 135 feet to the south line of the north 300 feet of said Lot 17; thence east along the south line of the north 300 feet a distance of 280 feet to the east line of Section 21, Township 28 South, Range 37 East; thence north along the east line of said Section 21 to the SE corner of the north 225 feet of said Lot 17; thence west along the south line of the north 225 feet of said Lot 17 to the SW corner of the north 225 feet of said Lot 17; thence north along the west line of said Lot 17 and Lot 32 to the north line of said Section 21 ; thence east along the north line of said Section 21 and Section 22 to the SW corner of Section 14 of said Township and Range; thence north along the west line of said Section 14 to the NW corner of said Section 14; thence east along the north line of said Section 14 to the west right-of-way of the Florida East Coast Railway; thence in a northerly direction and along the west right-of-way of the Florida East Coast Railway to a point on the south line of the north one-half of the Northeast one-quarter of the SW¼ of Section 11 of said Township and Range; thence east on the south line of the N½ of the NE¼ of the SW¼ of said Section 11 to a point on the west line of Government Lot 3 of said Section 11; thence north along the west line of said Government Lot 3 to the north line of the S½ of said Section 11; thence east along the north line of the S½ of said Section 11 and on a continued projection thereof to a point on the West Channel of the Indian River; thence in a southerly direction along the West Channel of the Indian River to the point of beginning.

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

(Amended by Ordinance 96-49, passed 9-19-96, in accordance with Fla. Stat. § 166.031(3))

Section 1.03 EXTRATERRITORIAL POWERS.

The extraterritorial powers conferred upon the existing municipal corporation are hereby continued to include municipal sharing of personnel and services such as fire and police protection and mutual aid with Brevard County and other municipalities.

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

Section 1.04 CONSTRUCTION.

The powers of the city shall be construed liberally in favor of the city, limited only by the Constitution, general and special acts and laws of the state of Florida and specific limitations contained herein. Future special acts, pertaining to the jurisdiction and exercise of powers by the city may be considered amendments to this charter and, pursuant to the provisions adopted for incorporation of other charter amendments, may be incorporated as official amendments to this charter.

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

Section 1.05 SUCCESSION.

The city shall continue to own and possess all property, real and personal, property rights heretofore owned, possessed or held by the city, interest, uncollected taxes, franchises, claims, judgments, and may sue and be sued. The city shall assume, manage, and dispose of all trusts in any way connected therewith and may purchase, receive, hold and enjoy or sell and dispose of any real and personal property.

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

Section 1.06 INTERGOVERNMENTAL RELATIONS.

The city may exercise any of its powers to perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one (1) or more states or agencies thereof, other counties or municipalities, or the United States or agencies thereof, to the fullest extent permitted by law.

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

Section 1.07 CORPORATE SEAL.

The city shall have a common seal and the council may change the same at its pleasure. The keeper of the seal shall be the city clerk.

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

ARTICLE II. BOUNDARIES

Section 2.01 DESCRIPTION OF BOUNDARIES.

The boundaries of the city 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.

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

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.

The council shall determine its annual salary by ordinance. No ordinance increasing its salary shall become effective until at least six (6) months after the next following regular municipal election. The annual salary of the council shall not be increased by more than five percent (5%) in any calendar year.

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

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. No former elected city official shall hold any compensated appointive city office or employment until, at least, one (1) year after the expiration of the term for which elected.

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.

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 have a proposed amendment to the city charter placed on the ballot of the next regular election or at a special election called for such purpose, for the electorate to either adopt or reject.

(2) The electors of the city shall have the power, by petition, to propose ordinances to the council. If the council fails to adopt an ordinance so proposed without any change in substance, such ordinance shall be placed on the ballot of the next regular election or at a special election called for such purpose, 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; and if the council fails to repeal such ordinance, it shall be placed on the ballot of the next regular election 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.

(4) The procedures to have an issue placed on the ballot shall be as set forth in this section, and shall be subject to other governmental agencies' requirements that may affect this section.

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. The process to amend the city charter or to adopt or repeal an ordinance shall be completed and the supervisor of election's 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.

(2) Form and content. 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. Within ten (10) days after the petition has been filed, the city clerk shall submit it to the county supervisor of elections to certify the number of registered voters who signed it. The city clerk shall, within three (3) working days after receipt, send a copy of the supervisor's certificate to the committee, by certified mail, indicating its sufficiency or insufficiency and the grounds therefore [therefor]. 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 resubmit the signatures to the county supervisor of elections to certify the number of registered voters who signed it. The city clerk shall, within three (3) working days after receipt, send a copy of the supervisor's certificate to the committee by certified mail as in the case of an original petition. 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)

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, 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)

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. The regular 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. Councilmembers shall not be eligible for reelection to the council for a term immediately succeeding a third consecutive term. 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.

5.043 Special/run-off elections. Special elections may be called by resolution of the council. Such resolution shall state the time, place, and purpose of the special election. Run-off elections shall be called by the city clerk and shall be held twenty-one (21) days after the election. The city clerk shall cause to be published in a newspaper of general circulation in the city of Palm Bay, a notice of any election. A sample ballot shall be published at least one (1) day prior to the election. In the event of a run-off election, notice shall be published at least three (3) days prior to the run-off election date, and a sample ballot published at least one (1) day prior to the election. All notices of elections to be held shall state the date, time, and place, office or offices to be filled, and/or the question(s) at issue.

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)

ARTICLE VI. TAXES AND FEES

Section 6.01 TAXES.

The council shall have full power and authority to levy taxes as authorized by law.

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

Section 6.02 SPECIAL ASSESSMENTS.

Before the governing body for the city may levy any special assessment involving more than fifty (50) property owners or involving a project expenditure of greater than twenty-five thousand dollars (\$25,000.00), the proposed assessment must first be approved, in writing, by a majority vote of the affected property owners who return a ballot.

(Ord. 92-28, passed 9-17-92) (Adopted by electorate 11-3-92) (Ord. 2001-57, passed 9-6-01) (Adopted by electorate 11-6-01)

Section 6.03 LICENSING FEES.

The city may levy reasonable business, professional, and occupational fees on businesses, professions and occupations, according to law.

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

ARTICLE VII. CITY BORROWING

Section 7.01 AUTHORITY TO BORROW.

The council may borrow money, contract loans, and issue notes and bonds as may be authorized by state law.

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

Section 7.02 BOND ISSUES.

(a) The council may authorize the issuance of bonds and notes by resolution or ordinance, or if required by the Constitution of the state of Florida by affirmative vote of the electors of Palm Bay, to finance approved city projects.

(b) The council shall approve the terms and manner of sale and distribution or other disposition of any and all notes and bonds it may issue and it shall have any and all powers necessary or convenient to such disposition.

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

Section 7.03 SINKING FUNDS.

The council may establish and administer appropriate sinking funds for the satisfaction of any outstanding indebtedness of the city.

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

ARTICLE VIII. PUBLIC SAFETY

Section 8.01 POLICE DEPARTMENT.

There shall be a police department.

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

Section 8.02 FIRE DEPARTMENT.

There shall be a fire department.

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

Section 8.03 CIVIL DEFENSE.

The city manager shall cause to be prepared and maintained current a plan to deal with all disasters, emergencies and catastrophes such as floods, hurricanes, tornadoes, other "acts of God," riots, and civil disturbances.

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

ARTICLE IX. MISCELLANEOUS PROVISIONS

Section 9.01 CHARTER REVIEW COMMISSION.

Within one (1) month after receipt of the results of the federal decennial census in 1990 and following each federal decennial census thereafter, the council shall appoint a commission of not less than ten (10) electors of the city, to be known as a charter review commission. The council may appoint a charter review commission at any other time when deemed appropriate. This commission shall review and recommend to the council any additions or deletions to this charter as in its judgment it deems advisable. The council shall submit to the electors any proposed additions or deletions to the charter in the manner provided in article III, section 3.09, of this charter.

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

Section 9.02 BOARDS, COMMITTEES, COMMISSIONS.

The council shall establish such boards, committees or commissions, and appoint members, as it deems advisable to make recommendations regarding the general welfare of Palm Bay residents and to ensure planned orderly growth and development of the city in accordance with state law.

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

ARTICLE X. TRANSITION SCHEDULE

Section 10.01 CONFLICTING LAWS AND ORDINANCES.

Any section of a law, ordinance, or regulation, insofar as it conflicts with or is inconsistent with the provisions of this charter, is hereby repealed.

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

Section 10.02 PENDING MATTERS.

All rights, claims, actions, orders, contracts, legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of this charter.

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

Section 10.03 SEVERABILITY CLAUSE.

If any article, part of article, or any provision of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor the context in which such article, part of article, or provision so held invalid may appear, except to the extent that an entire article or part may be inseparably connected in meaning and effect with the provision to which the court holding shall apply.

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

Section 10.04 EFFECTIVE DATE.

This charter, except as herein otherwise provided, shall take effect as prescribed by law. The city clerk shall place the effective date of this charter on the official copy filed in the clerk's office.

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

Referendum Election: November 3, 1992

Filed with Florida Department of State: November 16, 1992