

PART I

CHARTER AND RELATED LAWS

Subpart A

CHARTER*

* **Editors Note:** Printed herein is the home rule charter of the city, Ordinance No. 6371-99, as approved by the electors on March 9, 1999. Formerly, said Charter derived from Ordinance No. 1830, as approved by the electors on December 12, 1978. Additions made for clarity are indicated by brackets. Obviously misspelled words have been corrected without notation. A uniform style of capitalization and a uniform style of expression of numbers have been employed. Sections amended by subsequent ordinances are followed by a history note in parentheses.

State Law References: Municipal home rule powers act, F.S. ch. 166; charter amendments, F.S. § 166.031.

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ARTICLE I.

CORPORATE EXISTENCE, AND POWERS, AND BOUNDARIES

- Section 1.01. Corporate existence and powers.**

(a) *General Powers.* The City of Clearwater, Florida, (the "city"), as created by Chapter 9710, Special Laws of Florida, 1923, as amended, ~~shall exist and continue~~ as a municipal corporation, ~~with shall have~~ all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, ~~† The City and~~ may exercise any power for municipal purposes except when expressly prohibited by law. In addition to the powers enumerated herein, the city shall be vested with all powers granted by general or special acts of the Legislature of the State of Florida ~~or as and~~ otherwise provided by law.

(b) *Exercise of Powers.* The city may exercise ~~any of its powers and~~ or perform ~~and finance any of its functions and may participate in the financing thereof,~~ by contract or otherwise, jointly or ~~in cooperation~~ with any one or more states or political subdivisions or agencies thereof, or the United States or any agency thereof, or with any person as defined by law.

(c) *Construction.* The powers of the city under this charter shall be construed liberally in favor of the city. The city is empowered to do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants. The specific mention of a particular power in this charter shall not be construed as limiting the general power stated in this ~~§~~ Section of Article I. (6372-99, § 1, 1-21-99/3-9-99)

Section 1.02. Corporate boundaries.

The corporate boundaries of the city shall be as they exist on the date this charter takes effect, provided that the city ~~may shall have the power to~~ change its boundaries in the manner prescribed by law.

ARTICLE II.

LEGISLATIVE POWER

Section 2.01. Council ~~Commission~~; composition; powers.

(a) *Composition.* There shall be a city council ~~commission~~, (the "council" ~~commission~~), composed of five council ~~commission~~ members ~~commission~~, including the mayor ~~council~~ ~~member~~. The members will occupy seats numbered one through five, inclusive. All members shall be elected at large by the voters of the city.

(b) *Powers.* All legislative power of the city shall be vested in the council ~~commission~~, except as otherwise provided by law or the provisions of this charter, and the council ~~commission~~ shall provide for the exercise thereof

and for the performance of all duties and obligations imposed upon the city by law.

(c) *Duties.* It shall be the duty of the council ~~commission~~ to discharge the obligations and responsibilities imposed upon the council ~~commission~~ by state law, city ordinance and this charter. As a part of the discharge of its duty, the council ~~commission~~ shall:

1. Each October, a report on the evaluation of ~~evaluate~~ the performance of the city manager and city attorney shall be presented at a public meeting, ~~recognizing areas of exceptional performance as well as areas of in which performance can be improved. The evaluation process shall be determined by the council commission. The results of the evaluation shall be reported to the citizens of the city.~~
2. Adopt by ordinance a comprehensive system of fiscal management. The fiscal management ordinance shall include provisions relating to the operating budget, capital budget and capital program, and provide ~~providing~~ for hearings on the budget, capital budget and capital program and the amendment of the budget following adoption.
3. Provide for an annual or more frequent independent audit of all city accounts by a firm of certified public accountants. No firm shall be employed for more than five consecutive years. All audits shall be in accordance with law.
4. Regulate comprehensive planning, zoning and land development as provided by law.

(d) *Limitations.* The legislative power provided herein shall have the following limitations:

- (1) The total indebtedness, which for the purpose of this limitation shall include revenue, refunding, and improvement bonds of the city, shall not exceed 20 percent of the current assessed valuation of all real property located in the city. The total budgeted expenditures in any fiscal year shall not exceed the total estimated revenue plus any unencumbered funds carried forward from a prior fiscal year.
- (2) The city council ~~commission~~ shall by ordinance adopt procedures for the purchase or rental of goods and services.
- (3) Any non-budgeted expenditure in excess of \$5 million must be approved by the council ~~commission~~ at two separate meetings

held at least two weeks apart and advertised notice of a public hearing must be given at least five days prior to the second meeting.

- (4) With the exception of maintenance or emergency dredging, or dredging relating to those that portions of Dunedin Pass and Stevenson's Creek located within the boundaries of the city, permits for dredging or filling in excess of 10, 000 cubic yards below the mean high water line may be authorized only after a properly advertised public hearing before the council ~~commission~~ and approval at referendum.
- (5) Real property.
 - (i) Prior to the sale, donation, lease for a term longer than five years, or other transfer of any municipal real property, the council must determine ~~real property must be declared surplus and no longer needed for municipal public use by the commission~~ at an advertised public hearing that such action serves the public interest. Except in the case of right-of-way dedications, the granting of easements, disposition of uneconomic remainders, or as otherwise provided in this C charter transactions with governmental entities as described herein, no real property may be given away or donated without prior approval at referendum.
 - (ii) Except as otherwise provided herein, where the council has determined that sale of real property is in the public interest as provided in section 2.01(d)(5)(i) herein, the ~~real property declared surplus~~ shall be sold to the party submitting the highest competitive bid at or above the appraised value whose bid meets the terms set by the council ~~commission~~ and whose proposed use of the property is in accordance with the council 's ~~commission's~~ stated purpose ~~for declaring the property surplus~~, if any.
 - (iii) ~~Surplus~~ Real property may be transferred to another governmental entity for less than the appraised value after a finding by the council at an advertised public hearing that the transfer serves a public purpose ~~has been held and a finding by the commission of a valid public purpose for the transfer~~.
 - (iv) ~~Surplus~~ Real property may be exchanged for other real property having a comparable appraised value upon a finding of the council at a public hearing that such exchange serves the public interest.

- (v) The council may donate real property to a non profit organization for the construction of residential units upon a finding by the council at a public hearing that such donation serves a public purpose.
- (vi) ~~(v)~~ No municipally owned real property which was identified as recreation/open space on the city's comprehensive land use plan map on November 16, 1989, or at any time thereafter ~~(or as may be amended thereafter)~~, may be sold, donated, leased for a new use, or otherwise transferred without prior approval at referendum, except when the council ~~commission~~ determines it appropriate to dedicate right-of-way from, or easement over, ~~from~~ such property. Such recreation/open space property may be leased for an existing use, without referendum, unless such lease is otherwise prohibited by charter or ordinance.
- (vii) No right-of-way or public easement which terminates at, or provides access to, the water's edge of a body of fresh or salt water may be vacated for private benefit. Nothing contained in this section shall prevent an easement for utility purposes from being exchanged for a new easement for similar purposes or from converting a fee interest for utility purposes into an easement for such purposes.
- (viii) After a finding as provided in section 2.01(d)(5)(i) herein the council ~~The commission~~ may lease municipal real property for five years or less without declaring it surplus. ~~Municipal real property declared surplus may be leased for a term up to 30 years provided, however, nothing herein shall preclude renewal of any lease for a maximum of 30 years. Municipal property declared surplus may be leased for a an initial period of time or a renewal period exceeding 30 years, if approved at referendum, but not to exceed 60 years total. Leases of real property in an industrial park shall provide for continual use for private/public business purposes, shall provide a reasonable rate of return on the city's investment, and shall include a rent escalation clause. Nothing in this section shall preclude the council from entering into a new lease with the same tenant upon expiration of a current lease.~~
- (viii) ~~All leases of municipal real property shall contain recapture and reverter clauses.~~

- (ix) When purchasing real property for less than \$ ~~500,000.00~~ ~~250,000.00~~, the council ~~commission~~ shall obtain an appraisal performed by city staff or independent certified appraiser. If the purchase price of such property equals or exceeds \$ ~~500,000.00~~ ~~250,000.00~~ but is less than \$ ~~1,000,000.00~~ ~~500,000.00~~, the council ~~commission~~ shall obtain at least one appraisal by an independent certified appraiser. If the purchase price of such property equals or exceeds \$ ~~1,000,000.00~~ ~~500,000.00~~, the council ~~commission~~ shall obtain at least two appraisals by independent certified appraisers.

- (6) No municipal or other public real property lying west of Osceola Avenue, east of Clearwater Harbor between Drew and Chestnut Streets, being further described as in Appendix A-

~~That portion of city-owned land bounded on the north by the right-of-way of Drew Street, on the east by the right of way of Osceola Avenue, on the south of the right-of-way of Pierce Street, and on the west by the waters of Clearwater Harbor, lying below the 28 mean sea level elevation, together with the following described tract: Beginning at the northeast corner of section 16, township 29 south, range 15 east, Pinellas County, Florida, and run thence west along the north line of said section, 1320.0 feet; thence south along the west line of the east one-half of the northeast one-quarter of said section 16, 1526.16 feet to an intersection with an easterly projection of the centerline of Pierce Street; thence south 89°45'00" W along the centerline of Pierce Street, 418 feet to an iron stake set in a projection of the west line of Osceola Avenue as extended across Pierce Street; thence south 20 feet along this projection of the southwest corner of the intersection of Pierce Street and Osceola Avenue; thence south 88°18'42" W along the south line of Pierce Street, 375 feet to the point of beginning; thence continue south 88°18'42" W, 270.89 feet along said south line of Pierce Street to the east right of way line of Pierce Boulevard; thence south 19°24'39" east along aforesaid east right of way along a curve to the right, chord 157.24 feet, arc 157.41 feet, radius 980 feet; thence north 88°18'46" east, 120.42 feet; thence north 0°14'32" west, 50 feet; thence north 88°18'42", 100 feet; thence north 0°14'32" west, 99.80 feet to the point of beginning less and except that portion of the above-described tract designated for the Bandshell Site,~~

and no municipal or other public real property constituting the Memorial Causeway or lands immediately contiguous thereto, more particularly described as:

That portion of Memorial Causeway (S.R. 60) a 1200-foot-wide right-of-way, lying between the east abutment of the west bridge and the east line of Clearwater Harbor, and the submerged portions of Board of Trustees of the Internal Improvement Trust Fund Deed Numbers 17,500 and 17,502,

~~shall be developed or maintained other than as open space and associated city-owned recreational facilities such as boat slips, docks, dock master office, amphitheater, and associated appurtenances such as city-owned parking facilities, and public utilities together with associated appurtenances, except upon a finding by the council commission at a duly advertised public hearing that such development is necessary in the interest of the public health, safety and welfare of the citizens of the city and approval of such finding at referendum, conducted subsequent to the public hearing. Any such City owned parking facility, other than surface parking, shall be located south of Cleveland Street. City-owned tennis courts and associated appurtenances may be constructed and maintained on such property south of Cleveland Street.~~

- (7) No city owned real property in the area bounded on the north by Drew Street, on the east by Osceola Avenue, on the south by Pierce Street, and on the west by the waters of Clearwater Harbor, shall be sold, donated, leased, or otherwise transferred or used for other than city facilities except upon a finding by the council commission at a duly advertised public hearing that such transfer or use is necessary and in the interest of the public health, safety and welfare of the citizens of the city and the approval of such finding at referendum; except for that structure known as Harborview Center, as described in Appendix B ~~more particularly described as:~~

~~Beginning at the Northeast corner of Lot 1 of Rompon's & Baskin's Corrected Map of Causeway Business District, according to the plat thereof as recorded in Plat Book 57, Pages 1 and 2, Public Records of Pinellas County, Florida, for a POINT OF BEGINNING, said point being said Westerly right-of-way line of Osceola Avenue; run thence S 01°26'17" E, along said Westerly right-of-way line of Osceola Avenue, 224.38 feet, to the Northerly right-of-way line of Cleveland Street; thence N 89°58'26" W, along said Northerly right-of-way line of Cleveland Street, 403.55 feet; thence N 00°00'15" W, along a line West of the existing Harborview Center Building, 217.30 feet; thence along a line Northerly of said Harborview Center Building the following two courses, S 89°58'26" E, 187.20 feet; thence N 88°07'145" E, 310.85 feet to the POINT OF BEGINNING.~~

~~Which~~ structure may be leased for and used in furtherance of any municipal purpose consistent with the charter ~~character~~ and ordinances of the city.

(Ord. No. 6373-99, §§ 1, 2, 1-21-99/3-9-99)

Section 2.02. Qualifications.

Members of the council ~~commission~~ shall be qualified voters of the city and shall have continuously resided in the city for at least one year prior to submitting a petition for election. The council ~~commission~~ shall be the judge of the election, ~~and~~ the other qualifications of its members and of the grounds for forfeiture of their office.

Section 2.03. Election and terms.

All council members ~~commissioners~~, including the mayor-~~commissioner~~, elected prior to the regular City election in 2005, shall be elected for terms of three years. Terms shall overlap, with two council members ~~commissioners~~ elected one year, and the additional two council members and the mayor-~~commissioner~~ elected the following year.

No person elected prior to 2005, who has, or but for resignation or forfeiture of office would have, served as a council member ~~commissioner~~ for two consecutive full terms shall serve as a council member ~~commissioner~~ other than mayor-~~commissioner~~ during for the succeeding two three- year period term. No person who has, but for resignation or forfeiture of office would have, served as mayor-~~commissioner~~ for two consecutive full terms, shall serve as mayor-~~commissioner~~ or council member for the succeeding two three- year period term. ~~Term limits shall be effective for each respective seat on the date of the next election for that seat after 1994.~~

All council members, including the mayor, elected at the regular City election in 2005 or thereafter, shall be elected for terms of four years. Terms shall overlap, with two council members and the mayor elected one year, and the additional two council members elected two years later.

Commencing with the regular City election in 2005, no person who has, or but for resignation or forfeiture of office would have, served as a council member for two consecutive full terms shall serve as a council member other than mayor during the succeeding two year period. No person who has, or but for resignation or forfeiture of office would have, served as mayor for two consecutive full terms, shall serve as mayor or council member during the succeeding two year period.

Newly elected council members shall take office at the next council meeting following certification of city election returns.

(Ord. No. 63-74-99, § 1, 1-21-99/3-9-99)

Section 2.04. Compensation and expenses.

The council ~~commission~~ may determine the annual salary of council members ~~commissioners~~ and the mayor ~~commissioner~~ by ordinance. No ordinance increasing such salary shall become effective until the date of commencement of the terms of council members ~~commissioners~~ elected at the next regular election, ~~provided that such election follows~~ occurring at least six months following the adoption of such ordinance ~~by at least six months~~. Council members ~~Commissioners~~ shall be reimbursed their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.05. Mayor ~~commissioner~~, functions and powers.

The mayor ~~commissioner~~ shall preside at all meetings of the council ~~commission~~, perform such other duties consistent with the office as may be imposed by the council ~~commission~~ and this charter, and shall have a voice and a vote in the proceedings of the council ~~commission~~, but no veto power. The mayor ~~commissioner~~ may execute ~~use the title of mayor in the execution of~~ legal instruments on behalf of the city or otherwise as required by law. This authorization does not confer upon the mayor ~~commissioner~~ administrative duties except as required to carry out the responsibilities stated in this charter. The mayor ~~commissioner~~ shall be recognized as the official head of the city by the courts for the service of process, by the governor for purposes of military law, and for all ceremonial purposes.

At the first ~~second~~ council ~~commission~~ meeting each April, the council ~~commission~~ shall elect one of its members as vice-mayor. The vice-mayor shall act as mayor ~~commissioner~~ during the temporary absence or inability of the mayor ~~commissioner~~ to perform the duties of the office of the mayor.

Section 2.06. Prohibitions.

(a) *Appointments and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the city manager, or any of the city manager's subordinates, is empowered to appoint.

(b) *Dealing through city manager.* Except during an investigation ~~for the purpose of inquiries and investigations~~, the council and its ~~commission~~ members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. Neither the council ~~commission~~ nor its members shall give orders to any such officer or employee, either publicly or privately. Recommendations for

improvement in city operations by individual council members ~~commissioners~~ shall be made to and through the city manager.

Nothing in the foregoing paragraph prohibits individual members of the council ~~commission~~ from asking questions about ~~questioning~~ and observing city operations so as to obtain independent information to assist them in the formulation of policy.

(c) *Holding other office.* No present or former council member ~~commissioner~~ shall hold any compensated appointive city office or employment until one year after the expiration of the term for which such council member ~~commissioner~~ was elected.

Section 2.07. Vacancies; forfeiture of office; filling vacancies; advisory boards.

(a) *Vacancies.* The office of a council member ~~commissioner~~ shall become vacant upon the death, resignation, removal from office in any lawful manner, or forfeiture of the office, such forfeiture shall ~~to~~ be declared by the remaining members of the council ~~commission~~.

(b) *Forfeiture of office.* A council member ~~commissioner~~ shall forfeit such office if such member:

1. Lacks at any time during the term of such office any qualification for the office prescribed by law, or
2. Is convicted of a felony or a crime involving moral turpitude, or
3. Fails to attend three ~~six~~ consecutive regular meetings of the council ~~commission~~, unless such absence is excused by the council ~~commission~~, or
4. Fails to attend twenty-five percent of the regular meetings during a 12-month period whether excused or not.

(c) *Filling of vacancies; vacancy in council member's ~~commission~~ seat.*

1. A vacancy on the council ~~commission~~ shall ~~should~~ be filled by majority vote of the remaining council members ~~commissioners~~ within 45 ~~30~~ days after the vacancy. If the vacancy is not filled within 45 days after it occurs, the appointment to fill it shall be made by the Governor of Florida. The person so appointed shall serve as a council member ~~commissioner~~ until the next regular or special election. At such election, a council member ~~commissioner~~ shall be elected to serve for the remainder of the unexpired term of office.

2. ~~If the commission fails to fill such vacancy within 60 days after it occurs, a special election shall be called to fill the unexpired term.~~

23. Any person appointed to fill such a vacancy shall possess all the qualifications required of a council ~~commission~~ member by law.

(d) *Extraordinary vacancies.* In the event that all council ~~commission~~ members resign or are removed by death, disability, or forfeiture of office, the governor shall appoint an interim council ~~commission~~ that shall call a special election to be held within 90 days after the occurrence of the vacancies. Such election shall be held in the same manner as the first election under this charter. In the event vacancies cannot be filled as provided in section 2.07(c) because of permanent vacancies which make it impossible to assemble a quorum, then in such case the governor shall appoint that number of council ~~commission~~ members necessary to constitute a quorum who shall hold office until the next regular or special election.

(e) *Boards.* The council ~~commission~~ is empowered to appoint such advisory boards as it deems appropriate and regulatory board(s) as may be established by law.

(Ord. No. 6375-99, § 1, 1-21-99/3-9-99)

Section 2.08. Procedure.

(a) *Meetings.* The council ~~commission~~ shall meet regularly at least once each month at such times and places as the council ~~commission~~ may prescribe by rule. Special meetings may be held on call of the mayor-~~commissioner~~, the city manager, or any two council ~~commission~~ members and, when practical, upon no less than 24 hours' notice to each member and the public. All meetings shall be public, except as otherwise provided by law. The city manager and any council ~~commission~~ member shall have the power to cause any item to be placed on the next agenda.

(b) *Rules and minutes.* The council ~~commission~~ shall determine its own rules and order of business. The city clerk shall keep minutes of the council ~~commission~~ proceedings.

(c) *Voting.* Voting on ordinances and resolutions shall be by roll call and shall be recorded in the minutes. A majority of the council ~~commission~~ shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council ~~commission~~.

Except as provided in section 2.07(c), section 3.02 and in the preceding sentence, no action shall be valid or binding unless adopted by the affirmative vote of the majority of all council ~~commission~~ members.

Section 2.09. Ordinances and resolutions in general.

(a) *Definitions.*

1. "Ordinance" means an official, legislative action of the council ~~commission~~, which action is a regulation of a general and permanent nature and enforceable as a local law.
2. "Resolution" means an expression of the council ~~commission~~ concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the business of the council ~~commission~~.

(b) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended action, section, subsection, or paragraph of a section or subsection.

(c) *Procedure.* A proposed ordinance shall be read by title, or in full, on at least two separate days, at either regular or special meetings of the council ~~commission~~, and shall be noticed as required by law, ~~at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city.~~ The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(d) *Effective date.* Except as otherwise provided in this charter, every adopted ordinance shall become effective ten days after adoption or as otherwise specified therein.

(e) *Emergency ordinances.* An ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency and receives the vote of at least four council ~~commission~~ members. An emergency ordinance shall remain effective as an ordinance for a period of 90 days and shall automatically expire at the end of such 90-day period unless during the time of such period the ordinance is submitted for adoption in the manner provided for non-emergency ordinances. Such ordinances may not levy

taxes; grant, renew or extend a franchise; change election qualifications; set service or user charges for any municipal services; ~~authorize the borrowing of money;~~ enact or amend a land use plan; or rezone private real property.

Emergency ordinances shall become effective upon passing or at such other date as shall be specified in the ordinance.

Section 2.10. Authentication, recording and disposition of charter amendments, ordinances and resolutions.

(a) *Authentication.* The ~~mayor-commissioner~~ and the city clerk shall authenticate by their signatures all ordinances and resolutions adopted by the council. ~~and in addition, when charter amendments have been approved at referendum, the mayor-commissioner and the city clerk shall authenticate by their signatures the charter amendment.~~

(b) *Recording.* The city clerk shall keep properly indexed records in which shall be recorded, in full, all ordinances and resolutions passed by the council ~~commission~~. Ordinances shall periodically be codified. The city clerk shall also maintain the city charter in current form ~~and shall enter all charter amendments~~. A copy of the charter and any amendments thereto shall be sent to the secretary of state.

(c) *Availability of Public Records.* The council ~~commission~~ shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available to the people of the city for public inspection and available for purchase at a reasonable price to cover the cost of reproduction.

ARTICLE III.

ADMINISTRATION

Section 3.01. City manager.

The city manager shall serve as the ~~chief administrative officer~~ and chief executive officer of the city. The city manager shall be appointed on the basis of administrative qualifications, experience, and training. The city manager need not be a resident of the city or state at the time of appointment, but shall establish and maintain residency within the city within one year after the appointment. The city manager shall be responsible to the council for all city administrative affairs.

Section 3.02. Appointment; removal; compensation.

(a) *Appointment.* The council ~~commission~~ shall appoint a city manager by an affirmative vote of four council ~~commission~~ members. The city manager shall hold office at the pleasure of the council ~~commission~~.

(b) *Removal.* The council ~~commission~~ may remove the city manager by an affirmative vote of four council ~~commission~~ members or a majority of the council ~~commission~~ members at two separate meetings held at least two weeks apart. ~~Upon request by the city manager, a public hearing will be held prior to a vote to remove the city manager.~~

(c) *Compensation.* The compensation of the city manager shall be fixed by a majority of all the council ~~commission~~ members.

(d) *Acting city manager.* By letter filed with the council ~~commission~~, the city manager shall designate one or more assistant city managers to exercise the powers and perform the duties of city manager during the city manager's temporary absence or disability. This designation shall be limited to a period of 60 days. At the expiration of this period, the council ~~commission~~ shall appoint an interim or new city manager in accordance with the provisions of this charter.

Section 3.03. Powers and duties of the city manager.

The city manager shall:

(a) Appoint promote, ~~and~~ suspend, demote, or remove any city employees or appointive administrative officers under the city manager's jurisdiction, except as may be otherwise provided by law. Such appointment, promotion, suspension, demotion, or removal shall be in compliance with the civil service law and other applicable rules and regulations.

(b) Establish or discontinue any city department, division or board in the administrative affairs of the city, subject to council ~~commission~~ approval.

(c) Attend council ~~commission~~ meetings and have the right to take part in discussion, but not to vote.

(d) See to the faithful execution ~~executive~~ of all laws, provisions of this charter, and acts of the council ~~commission~~ subject to enforcement by the city manager or officers subject to the city manager's supervision.

(e) Prepare and submit to the council ~~commission~~ in the form provided by ordinance, the annual budget, a capital improvement budget, and a projected capital improvement program for a minimum five-year period.

(f) Submit to the council ~~commission~~ at the first regular meeting in September of each year and make available to the public a comprehensive report on the financial condition and administrative activities of the city.

(g) Make such other reports as the council ~~commission~~ may require concerning the operations of city departments, offices and agencies subject to the city manager's supervision.

(h) Keep the council ~~commission~~ fully advised as to the financial condition and future needs of the city and make recommendations to the council ~~commission~~ concerning the affairs of the city.

(i) Sign contracts on behalf of the city pursuant to the provisions of appropriations ordinances.

(j) Develop and keep current an administrative code which sets forth the organizational and operational procedures of the city government.

(k) Provide administrative assistance to the council ~~commission~~ in connection with their official duties, and perform such other duties as are specified in this charter or may be required by the council ~~commission~~.

(l) Act as purchasing agent for the city.

(Ord. No. 6375-99, § 2, 1-21-99/3-9-99)

Section 3.04 City clerk.

The city manager shall appoint a city clerk, which appointment must be confirmed by the council ~~commission~~ prior to becoming effective. The city clerk or the ~~official representative~~ designee of the city clerk shall:

(a) Be custodian of all records and the official seal of the city;

(b) Attest all documents requiring attestation and agreements to which the city is a party;

(c) Arrange for and supervise all city elections;

(d) Attend all meetings of the council ~~commission~~ and keep minutes of its proceedings;

(e) Give notice of council ~~commission~~ meetings to its members and the public;

(f) Perform such other duties as directed or required by law.

Section 3.05. Personnel system.

Appointments and promotions of city officials and employees, except those specifically exempted by ordinance, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence as provided by law.

ARTICLE IV.

CITY ATTORNEY; LEGAL DEPARTMENT*

*Code reference--Officers and employees generally, § 2.261 et seq.

Section 4.01. City attorney, legal department.

There shall be a legal department, headed by the city attorney, operating under the authority of and responsible to the council ~~commission~~. The legal department shall consist of the city attorney, assistant city attorneys, ~~when appointed and authorized by the commission,~~ and such other staff as the council ~~commission~~ may authorize direct.

Section 4.02. City attorney, appointment, removal, compensation, qualifications and duties.

(a) *Appointment.* The city attorney shall be appointed by the affirmative vote of four council ~~commission~~ members and may be removed by a majority of the members of the council ~~commission~~ ~~members voting for removal.~~ ~~Upon request by the city attorney a public hearing will be held prior to a vote to remove the city attorney.~~ The city attorney shall be a member in good standing of The Florida Bar.

(b) *Duties.* The city attorney shall be the legal advisor to the council ~~commission~~, the city manager and all city departments, offices and agencies. When required by the city council ~~commission~~, the city attorney shall prosecute or defend, on behalf of the city, all complaints, suits and controversies in which the city is a party; and shall prepare or review and approve as to form and legal sufficiency all contracts, bonds, and other instruments to which the city is a party. The city attorney shall perform such other duties as may be directed by law or the city council ~~commission~~.

(c) *Absence.* By letter, filed with the council ~~commission~~, the city attorney shall designate one or more assistant city attorneys to perform the duties of city attorney during a temporary absence or disability. This designation shall be limited to a period of 60 days. At the expiration of this time, the council ~~commission~~ shall appoint an interim or new city attorney in accordance with the provisions of this charter.

(Ord. No. 6375-99, § 3, 1-21-99/3-9-99)

Section 4.03 Assistant city attorneys, special counsel.

(a) Assistants. The city attorney shall appoint as many assistant city attorneys as authorized by the city council ~~commission~~.

(b) Special Counsel. The council ~~commission~~ may employ special counsel, outside of the legal department, who shall conduct such investigations and perform such services as the council ~~commission~~ may direct and who shall report directly to the council ~~commission~~.

Section 4.04 Compensation.

The council ~~commission~~ shall determine the compensation to be paid to the city attorney and special counsel. Compensation for the assistant city attorneys shall be established by the city attorney and approved by the council ~~commission~~.

ARTICLE V.

RESERVED

ARTICLE VI.

INITIATIVE, REFERENDUM; RECALL

Section 6.01. Initiative.

The voters of the city shall have power to propose ordinances to the council ~~commission~~, and, if the council ~~commission~~ fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such powers shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, or salaries of city officers or employees.

Section 6.02. Referendum.

The voters of the city shall have power to require a reconsideration by the council ~~commission~~ of any adopted ordinance and, if the council ~~commission~~ fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program, any emergency ordinance, or ordinance relating to appropriation of money, levy of taxes, or appointment or salaries of city officers or employees.

Section 6.03. Recall.

The voters of the city shall have the power to recall or remove from office any elected official or officials of the city, for the reasons and in the manner set forth in the General Laws of the State of Florida, ~~and more particularly section 100.361, Florida Statutes, including any amendments thereto.~~

Section 6.04. Commencement of proceedings.

Any five voters may commence initiative or referendum proceedings by filing with the city clerk or other official designated by the council ~~commission~~ an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses, specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk or other official designated by the council ~~commission~~ shall at the committee's request issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

Section 6.05. Petitions.

(a) Number of signatures. Initiative or referendum petitions must be signed by voters of the city equal in number to at least ten percent of the total number of voters registered to vote in the last regular city election.

(b) Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Affidavit of the circulator. Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating: That the circulator personally circulated the paper; the number of signatures thereon; that all the signatures were affixed in circulator's presence; that the circulator believes them to be the genuine signatures of the persons whose names they purport to be; and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for filing referendum petitions. Completed referendum petitions must be filed within 90 days after the effective date of the ordinance sought to be reconsidered.

Section 6.06. Procedure to filing.

(a) Certificate of city clerk; amendment. Within 20 days after the initiative or referendum petition is filed, the city clerk or other official designated by the council commission shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is insufficient and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in section 6.05 hereof. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend with the city clerk or other official designated by the council commission within two working days after receiving the copy of the city clerk's certificate and files a supplementary petition within ten days after receiving the copy of such certificate. The supplementary petition shall comply with the requirements of ~~subsections (b) and (c) of section 6.05~~ (b) and (c) hereof and within five days after it is filed the city clerk or other official designated by the council commission shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner's committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient, or if a petition or amended petition is certified insufficient and the petitioner's committee does not elect to amend or request council commission review under subsection (b) of this section within the time required, the city clerk or other official designated by the council commission shall promptly present the certificate to the council commission and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Council Commission review. If a petition has been certified insufficient and the petitioner's committee does not file a notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two working days after receiving the copy of such certificate, file a request that it be reviewed by the council commission. The council commission shall within 30 days review and approve or disapprove it, and the council's commission's determination shall then be a final determination as to the sufficiency of the petition.

Section 6.07. Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the city clerk or other official designated by the council commission, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of insufficiency of the petition, or
- (b) The petitioners' committee withdraws the petition, or
- (c) The council commission repeals the ordinance, or

(d) Tabulation of the ballots cast by the voters of the city on the ordinance has been certified and repeal of the ordinance has failed.

Section 6.08. Action on petitions.

(a) Action by council commission. When an initiative or referendum petition has been determined sufficient, the council commission shall promptly consider the proposed initiative ordinance in the manner provided in Article article II or reconsider the referred ordinance by voting its repeal. If the council commission fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.

(b) Submission to voters. The vote of the city on a proposed or referred ordinance shall be held not less than 90 days and not later than 150 days from the date that the petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the council commission shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council commission may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

(c) Withdrawal of petitions. An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the council commission a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 6.09. Results of election.

(a) Initiative. If a majority of the voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as an ordinance of the same kind adopted by the council commission except that it may not be repealed until after the next regular city election. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) Referendum. If a majority of the voters voting on a referred ordinance vote against the referred ordinance, it shall be considered repealed upon certification of the election results and may not be reenacted in substance until after the next regular city election.

(Ord. No. 6375-99, § 4, 1-21-99/3-9-99)

ARTICLE VII.

GENERAL PROVISIONS

Section 7.01. Charter amendment.

(a) Initiation by ordinance. In addition to charter amendments otherwise authorized by law, the council commission may, by ordinance, propose amendments to any part or all of this charter, except Article article I, section 1.02, prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote at the next general election held within the city or at a special election called for such purpose.

(b) Initiation by petition.

1. The voters of the city may propose amendments to this charter, except Article article I, section 1.02, prescribing boundaries, in the manner set forth in Article article VI, section 6.05(a)--(c).

2. Upon certification of the sufficiency of the petition by the city clerk, the council commission shall place the proposed amendment to a vote of the voters at the next general or special election held not less than 90 days nor more than 150 days after certification.

Section 7.02. Charter review ~~advisory~~ committee.

The council commission shall appoint a charter review ~~advisory~~ committee in January, 1994, and at least every six five years thereafter and provided the appointments shall be are made in January of a year preceding a city election. The Council shall appoint twelve members to the charter review committee. Each Council member shall make one appointment, and the other seven members shall be appointed by a majority vote of the council. In addition, the Mayor and Vice-mayor shall serve as non-voting ex-officio members. The charter review ~~advisory~~ committee shall continuously be composed of not less than ten members. If the number of members of the committee falls below ten, the Council shall appoint additional members. The charter review committee shall submit a report to the city council on or before December 1 of the year in which the charter review was held. Included in the report shall be any proposed amendments to the charter together with the wording of the question or questions that shall be voted upon at referendum. The city council shall call a referendum election to be held in connection with the next city election for the purpose of voting on the question or questions submitted by the charter review committee. Neither the amendments nor questions may be changed by the city council. #

shall review the existing charter and make recommendations to the commission for revisions thereto.

ARTICLE VIII.

NOMINATIONS AND ELECTIONS

Section 8.01. Qualified voters.

Any person who is a resident of the city who has qualified as a voter of Florida, and Pinellas County, and who registers in the procedural manner prescribed by law, shall be a qualified voter of the city.

Section 8.02. Nonpartisan elections.

All nominations and elections for council ~~commission~~ shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition, or ballot, or political advertisement under the control of the candidate.

(Ord. No. 6375-99, § 5, 1-21-99/3-9-99)

Section 8.03. Form of ballots.

The council ~~commission~~ shall by ordinance prescribe the form of the ballot and the method of of conducting all elections of the city.

(a) Council ~~commission~~ ballots. Candidates for seats on the council ~~commission~~ shall be grouped according to the seat number for which they are candidates. Within each group, names shall be placed on the ballot alphabetically. No candidate may seek election to more than one seat in any election.

(b) Charter amendment. A charter amendment to be voted on by the voters of the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the word "yes" and also the word "no" with a location thereafter to indicate the voter's choice.

Section 8.04. Nominations.

The names of candidates for council ~~commission~~ shall be placed upon the ballot by the filing of a written notice of candidacy with the city clerk at such time

and in such manner as may be prescribed by ordinance. ~~The ordinance shall require the payment of a qualifying fee in the amount of \$50.00. The candidate shall submit petition cards from not less than 250 city voters.~~

~~The qualifying fee and petition cards are to be received by the city clerk not more than 60 days nor less than 46 days prior to the date of the election. The notice must designate the number of the seat for which the candidate is seeking election. All applications shall be accompanied by an affidavit that the candidate is a voter of the city and has been a resident of said city continuously for at least one year immediately prior to the filing of the notice of candidacy. Where only one candidate qualifies for nomination to a seat on the council ~~commission~~, then no general election shall be held with respect to the seat and the candidate shall be declared elected to the seat.~~

Section 8.05. Elections.

(a) Council ~~commission~~ positions. All members of the city council ~~commission~~ shall be elected at large. The candidate receiving the largest number of votes among the candidates for that seat shall be elected.

(b) Regular elections. Regular city elections shall be held on the second Tuesday in March of each year in which a council ~~commission~~ term expires.

(c) Special elections. Special municipal elections may be called by the council ~~commission~~ at any time for such purposes as are authorized by law.

(d) Canvassing board. The council ~~commission~~ shall meet as a canvassing board within 24 hours after the closing of the polls in any municipal election and shall canvass the election returns except when such election is held in conjunction with an election conducted by Pinellas County, in which case certification of the returns by the county canvassing board may be accepted as the certification of the municipal election returns.

Section 8.06. Candidate vacancy.

If the death, withdrawal or removal from the ballot of a candidate occurs after the end of the qualifying period and leaves fewer than two candidates for an office, then the qualifying period shall be extended to the latest date on which a name can be added to the ballot. If a name cannot be added to the ballot, the remaining candidate shall be declared elected.

ARTICLE IX.

FISCAL MANAGEMENT PROCEDURES

The city's fiscal management procedures shall include provisions relating to the operating budget, capital budget, and capital program and provide ; ~~providing~~ for hearings on the budget, capital budget, and capital program and the amendment of the budget following adoption. The ordinance shall contain a provision requiring that revenue bonds for projects in excess of one million dollars be put to referendum with the exception of revenue bonds for public health, safety or industrial development and revenue bonds for refunding.

ARTICLE X.

TRANSITION SCHEDULE

Section 10.01. Continuation of former charter provisions.

All provisions of Chapter 9710, Special Acts of 1923, Florida Legislature, as amended by special law or otherwise, which are not embraced herein and which are not inconsistent with this charter shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

Section 10.02. Ordinances preserved.

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

Section 10.03. Rights of officers and employees.

Except as is specifically provided herein, nothing in this charter shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption. City council ~~commission~~ members shall continue to hold their offices until their successors are elected.

Section 10.04. Pending matters.

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

Section 10.05. Schedule.

~~(a) Effective date. Article VIII of this charter shall take effect immediately upon passage of this charter. Term limits as specified in Section 2.03 shall become effective for elections after 1994.~~

(b) ~~Time of taking full effect.~~ This charter shall be in full effect for all purposes on and after approval by a majority of the electors voting in a valid election to be called for such purpose, and upon being filed with the Secretary of State.

Appendix A

That portion of city-owned land bounded on the north by the right-of-way of Drew Street, on the east by the right-of-way of Osceola Avenue, on the south of the right-of-way of Pierce Street, and on the west by the waters of Clearwater Harbor, lying below the 28 mean sea level elevation, together with the following described tract: Beginning at the northeast corner of section 16, township 29 south, range 15 east, Pinellas County, Florida, and run thence west along the north line of said section, 1320.0 feet; thence south along the west line of the east one-half of the northeast one-quarter of said section 16, 1526.16 feet to an intersection with an easterly projection of the centerline of Pierce Street; thence south 89°45'00" W along the centerline of Pierce Street, 418 feet to an iron stake set in a projection of the west line of Osceola Avenue as extended across Pierce Street; thence south 20 feet along this projection of the southwest corner of the intersection of Pierce Street and Osceola Avenue; thence south 88°18'42" W along the south line of Pierce Street, 375 feet to the point of beginning; thence continue south 88°18'42" W, 270.89 feet along said south line of Pierce Street to the east right-of-way line of Pierce Boulevard; thence south 19°24'39" east along aforesaid east right-of-way along a curve to the right, chord 157.24 feet, arc 157.41 feet, radius 980 feet; thence north 88°18'46" east, 120.42 feet; thence north 0°14'32" west, 50 feet; thence north 88°18'42", 100 feet; thence north 0°14'32" west, 99.80 feet to the point of beginning less and except that portion of the above described tract designated for the Bandshell Site.

Appendix B

Beginning at the Northeast corner of Lot 1 of Rompon's & Baskin's Corrected Map of Causeway Business District, according to the plat thereof as recorded in Plat Book 57, Pages 1 and 2, Public Records of Pinellas County, Florida, for a POINT OF BEGINNING, said point being said Westerly right-of-way line of Osceola Avenue; run thence S 01°26'17" E, along said Westerly right-of-way line of Osceola Avenue, 224.38 feet, to the Northerly right-of-way line of Cleveland Street; thence N 89°58'26" W, along said Northerly right-of-way line of Cleveland Street, 403.55 feet; thence N 00°00'15" W, along a line West of the existing Harborview Center Building, 217.30 feet; thence along a line Northerly of said Harborview Center Building the following two courses, S 89°58'26" E, 187.20 feet; thence N 88°07'145" E, 310.85 feet to the POINT OF BEGINNING.