

BACKUP MATERIALS INCLUDED WITH AGENDA REQUEST FOR:
Charter Review Committee Report

Materials included:

1. Final Report of Recommendations (page2)
2. Blackline version of City Charter (page 7)

1. Final Report of Recommendations

Final Report of the 2021 Charter Review Committee
Presented to the City Commission on March 7, 2022

Following is a list of recommendations proposed by the Charter Review Committee:

Article I. Establishment of Municipality

Section	Proposed Recommendation:
Section 3. Boundaries	Recommendation to amend the Charter to add the word “commission” to the last sentence to clarify the City Commission has power to change its boundaries
Section 4. Form of Government	Recommendation to amend the Charter to include an Elected Mayor who shall serve for 4 years and who shall have no veto power, does have a vote on the Commission, will be subject to Sunshine Law and has no administrative powers or duties
Section 5. Nondiscrimination	Recommendation to amend the Charter to add the words “gender identity” to the nondiscrimination section

Article II. Powers of Municipality

No changes recommended

Article III. City Commission

Section	Proposed Recommendation:
Section 1. Composition/District Boundaries; eligibility& term of members	Recommendation to amend the Charter to include a 5 person City Commission consisting of 4 single member district Commissioners and 1 at large elected Mayor
Section 3. Compensation	Recommendation to amend the Charter to set the Elected Mayor salary at \$45,000 a year with a 2% annual increase and to set the City Commissioners salary at \$40,000 a year with a 2% annual increase. The 2% annual increase shall be based on the original principal and accumulated prior increases.
Section 7. Mayor, Vice Mayor, Acting Mayor	Recommendation to amend the Charter to provide that the Vice Mayor shall be selected annually at the 2nd Regular Meeting in November on Non-election years rather than holding a Special Meeting

Article IV. Powers and Duties of City Commission

Section	Proposed Recommendation:
Section 2. Enactment of Ordinances and Resolutions	Recommendation to amend the Charter revising paragraph (g) and (h) to include updated language regarding posting of Ordinances and Resolutions at City Hall, removing reference to “bulletin board” and allowing for digital posting; update reference to “department of community affairs” which is now the “department of economic opportunity”
Section 4. Record of Ordinances	Recommendation to amend the Charter to include updated language reflecting advances in digital record keeping and remove reference to ordinances being kept in a book as a permanent record as proposed by City Auditor and Clerk in memo dated September 21, 2021
Section 11. Surety Bonds	Recommendation to amend the Charter to update the language requiring surety bonds for named individuals and instead allow the flexibility to provide either bond or insurance coverage, as proposed in memo from HR Director Mason dated October 8, 2021

Article V. City Manager

Section	Proposed Recommendation:
Section 2. Removal	Recommendation to amend the Charter to require the affirmative vote of four (4) members of the City Commission to remove the City Manager from office rather than three (3)

Article VI. City Auditor and Clerk

Section	Proposed Recommendation:
Section 2. Removal	Recommendation to amend the Charter to require the affirmative vote of four (4) members of the City Commission to remove the City Auditor and Clerk from office rather than three (3)
Section 5. Powers & Duties	Recommendation to amend the Charter to reflect updates as proposed by the City Auditor and Clerk in memo dated October 19, 2021
Section 6. Audit of accounts	Recommendation to amend the Charter to reflect updates as proposed by the City Auditor and Clerk in memo dated October 19, 2021

Article VII. City Attorney

Section	Proposed Recommendation:
Section 2. Removal	Recommendation to amend the Charter to require the affirmative vote of four (4) members of the City Commission to remove the City Attorney from office rather than three (3)

Article VIII. Bonding

No changes recommended

Article IX. Nominations Elections and Referenda

Section	Proposed Recommendation:
Section 3. Vacancy in Candidacy	Recommendation to amend the Charter to add the words “or office of the Mayor” to distinguish between a City Commission candidate and the recommended Elected Mayor position candidate
Section 4. Conduct of Elections	Recommendation to amend the Charter to revise paragraph (c) and (d) to follow state regulations on campaign contributions and add a note that State Law preempted municipalities from enacting limits which differ from the limits established by state statute; revise paragraph (e) to reflect that the last reports before an election may be hand delivered or delivered electronically on the fourth day rather than sixth day to match state guidelines
Section 5. Elections	Recommendation to amend the Charter to reflect changes needed in the Election process to accommodate the election of four (4) district Commissioners and an Elected Mayor

Article X. Charter Amendments

No changes recommended

Article XI. Miscellaneous Provisions

No changes recommended

Article XII. Transitional Provisions

No changes recommended

New Issues:

Issue	Proposed Recommendation:	Applicable Article & Section
Require yearly training on the City Charter	Recommendation to amend the Charter to add language to require that City Commissioners participate in yearly review of the City Charter	Article IV. Powers & Duties of City Commission. Section 19.
Require super majority vote for the sale of city owned property	Recommendation to amend the Charter to add language to require a super majority vote of the City Commission for the sale of any city owned property excluding properties included on the affordable housing list	Article IV. Powers & Duties of City Commission. Section 13. Grant of franchises; approval of written contracts, leases, changes to pension plan <u>and sale of city owned property</u>

2. Blackline version of City Charter

Subpart A. Charter¹

ARTICLE I. ESTABLISHMENT OF MUNICIPALITY

Sec. 1. Purpose.

We, the people of the City of Sarasota, desiring to avail ourselves of the right to establish a home-rule charter, in accordance with the constitution and the laws of the State of Florida, do ordain and establish this Charter and form of government for the City of Sarasota, Florida.

Sec. 2. Body corporate and politic.

The City of Sarasota, Florida, as its boundaries are established pursuant to Article I, Section 3, shall be and continue to be a body politic and corporate to be known and designated as the "City of Sarasota" and as such shall have perpetual succession.

Sec. 3. Boundaries.

The corporate boundaries of the city shall be established by ordinance and shall remain fixed as existing on the date this Charter takes effect. The city commission shall have the power to change its boundaries in the manner prescribed by law.

Sec. 4. Form of government.

The form of government established under this Charter shall be a "commission-manager" form as herein defined, with the city commission to consist of five (5) citizens who shall be elected in the manner hereinafter provided. The city commission shall constitute the governing body of the city, with the duties and responsibilities hereinafter provided. The city commission shall appoint a city manager to be chief administrator of the city and who shall serve at the pleasure of the city commission.

Sec. 5. Nondiscrimination.

Discrimination on the basis of age, disability, gender, gender identity, marital status, national origin, race, religion, sexual orientation or veterans status, in the areas of housing, employment and public accommodation, shall be prohibited in the city.

(Ord. No. 02-4398, §§ 1—9, 8-12-02)

¹Editor's note(s)—The city's Charter was approved at a referendum called by Ord. No. 96-3951, held on Sept. 3, 1996. The Charter has been included essentially as adopted, with only minor stylistic changes made for the purpose of conformity. Any editorial emendations made for the purpose of clarity are included in brackets []. Obviously misspelled words have been corrected without comment.

ARTICLE II. POWERS OF MUNICIPALITY

Sec. 1. General.

In accordance with the Constitution of the State of Florida and the statutes of the State of Florida, the City of Sarasota shall have all governmental, corporation, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services; and it may exercise any of its powers for municipal purposes, except when expressly prohibited by law.

ARTICLE III. CITY COMMISSION

Sec. 1. Composition and district boundaries; eligibility, election and term of members.

- (a) There shall be a city commission with all legislative powers of the city vested therein, consisting of five (5) persons who are electors of the city. City commissioners shall be elected to office for a four-year term. The Mayor ~~Two (2) commissioners~~ shall be elected at-large. ~~Three (3)~~ Four (4) commissioners shall be elected from single-member districts and shall reside in the district from which ~~he/she is~~ they are elected. All references to the city commission shall include the mayor unless specific reference is made to the mayor.
- (1) Candidates qualifying for the office of Mayor ~~the at-large seats~~ on the city commission shall have been residents and qualified electors of the city for a minimum of one (1) year immediately preceding the commencement of the term of office.
- (2) Candidates qualifying for district seats on the city commission shall have resided in and shall have been a qualified elector of the respective district for which they are qualifying for a minimum of one (1) year immediately preceding the commencement of the term of office.
- (b) The boundary of each of the ~~three-four~~ districts shall remain fixed and established as existing on the date this Charter takes effect. However, the city commission shall have the power to change the district boundaries in the manner prescribed by law.
- (c) Within one year after publication of each decennial census, the city commission shall consider the number of residents in each of the ~~three~~ four districts and, if necessary, after holding a public hearing, cause the boundaries of the districts to be redrawn in order to conform to Constitutional standards and other applicable requirements of law. This provision shall not be deemed to prohibit the city commission from considering restructuring the boundaries of the districts in the event of major changes in the population of any district brought about by annexation, contraction, or substantial population shifts.

Sec. 2. Nonpartisan election.

All elections to the office of city commissioner shall be conducted on a nonpartisan basis without designation of any political affiliation of any candidate on any ballot.

Sec. 3. Compensation.

All members of the city commission shall receive, for their services, reasonable annual compensation. Annual compensation ~~shall be the salary authorized by Florida Statutes, Chapter 145.031, for the population group III~~

multiplied by 66.7 percent. for the Mayor shall be Forty Five Thousand (\$45,000.00) with a two percent (2%) increase added annually. Annual compensation for the four City Commissioners shall be Forty Thousand Dollars (\$40,000.00) with a two percent (2%) increase added annually. For purposes of this section the two percent annual increase shall be calculated based on the original principal and accumulated prior increases.

City commissioners shall be reimbursed for expenses incurred in connection with official duties, as approved by ordinance or resolution.

Sec. 4. Judge of its own election; qualifications of members; forfeiture of office.

The city commission shall be the judge of the election and qualification of its own members, subject to review by the courts. A city commissioner shall forfeit office if ~~he/she~~ they (1) at any time during ~~his/her~~ their term of office lacks any qualifications for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a felony or a crime involving moral turpitude, (4) fails to attend three (3) consecutive regular meetings of the city commission without being excused by the city commission or (5) ceases to fulfill the residency requirements of this Charter.

Sec. 5. Filling of vacancies.

A vacancy on the city commission caused by the death, resignation, disability, forfeiture, or recall of any commissioner shall be confirmed in the city records by the remaining commissioners at the next regular or any specially called meeting of the commission. The vacated office shall be filled as follows:

- (a) If such vacancy occurs within the first three (3) years of a commissioner's four (4) year term, a special election shall be held within seventy-five (75) days after such vacancy occurs. The person so elected shall serve the remainder of the unexpired term.
- (b) If such vacancy occurs within one (1) year prior to the expiration of the commissioner's term, a majority of the remaining commissioners shall, within twenty-one days, appoint a qualified elector to the vacant seat to serve the remainder of the unexpired term. If the city commission fails to make the appointment within twenty-one (21) days, the governor is hereby authorized to appoint a qualified elector to serve the remainder of the unexpired term.

When a special election is called, the qualifying period for candidates shall begin as prescribed by ordinance. Special elections shall otherwise follow the election procedure for regular elections.

If no more than one (1) person qualifies for the special election, that person shall be proclaimed elected to the vacant seat upon the close of the qualifying period.

The qualified elector appointed, the candidate proclaimed elected, or the candidate elected at the special election shall be sworn into office at a special meeting called for that purpose or at the next regularly scheduled city commission meeting.

When three (3) or more vacancies occur so as to prevent the formation of a quorum required by Article III, Section 11, hereof, the governor of the State of Florida is authorized to fill such vacancies by temporary appointments. The city commission so formed shall call for a special election to be held within seventy-five (75) days of such temporary appointments to fill the remainder of each unexpired term. Such temporary appointments shall expire at such time as the newly elected commissioners take the oath of office required under the provisions of Article XI, Section 2.

For special elections to fill vacancies on the city commission or appointments by the commissioners or by the governor to fill vacancies on the city commission:

- (1) Candidates qualifying for election or for appointment to fill a vacancy in an at large commission seat shall have been residents and qualified electors of the city for a minimum of one (1) year immediately

preceding the date the newly elected or appointed commissioner takes the oath of office required by Article XI, Section 2 of this Charter.

- (2) Candidates qualifying for election or for appointment to fill a vacancy in a district commission seat shall have been residents and qualified electors of the district to be represented for a minimum of one (1) year immediately preceding the date the newly elected or appointed city commissioner takes the oath of office required by Article XI, Section 2 of this Charter.

(Ord. No. 15-5115, § 2, 1-20-15, approved 5-12-15)

Sec. 6. City employment prohibitions.

A city commissioner shall not hold any other city position for which ~~he/she~~ they receives compensation during ~~his/her~~ their term as commissioner or for two (2) years after leaving office.

Sec. 7. ~~Mayor, vice mayor and acting mayor.~~

- (a) At the 2nd regular meeting in November of each odd numbered year, the city commission shall elect one (1) of its members as vice-mayor of the city. On the Friday following the first Tuesday after the first Monday in November of each even numbered year, or thereafter when necessary to fill a vacancy, the city commission shall elect one (1) of its members as ~~mayor and another of its members as~~ vice-mayor of the city. In case the members of the City Commission are unable to agree upon the selection of the ~~mayor and/or~~ the vice-mayor within five (5) days after the time fixed herein or within five (5) days after any vacancy occurs, such offices shall be chosen by lot, conducted by the city auditor and clerk, who shall certify the result of such lot in the minutes of the city commission.
- (b) In the event of illness, disability, death or absence of the mayor, the vice-mayor shall act as mayor and have all the powers, duties and authority of the mayor; and in the event the vice-mayor signs any instrument in place of the mayor, then it shall be presumed without further proof that the mayor was either ill, disabled, deceased or absent from the city.
- (c) In the event of illness, disability or absence from the city of both the mayor and the vice-mayor, a quorum of the city commission may appoint an acting mayor for such length of time or for such particular purpose as may be necessary.

(Ord. No. 11-4974, § 2, 7-18-11; Ord. No. 18-5254, § 2, 7-16-18, approved by voters 11-6-18)

Sec. 8. Functions and powers of mayor.

The mayor shall preside at all meetings of the city commission and perform such other duties consistent with the office as may be imposed by the city commission. The mayor shall have a voice and a vote in the proceedings of the city commission, but no veto power. ~~He/she~~ They may use the title of mayor in any case in which the execution of written legal instruments or other necessity arising from the general laws of the state as may be required. This shall not be considered as conferring upon ~~him/her~~ them the administrative or judicial functions of a mayor under the general laws of the state. The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil processes, by the government in the exercise of military law, and for all ceremonial purposes. The incumbent mayor shall present an annual state of the city message. The powers and duties of the mayor shall be such as are conferred upon ~~him/her~~ them by the city commission in pursuance of the provisions of this Charter, and no others.

Sec. 9. Meetings.

- (a) The city commission shall meet at such times as it may prescribe by resolution, provided it shall meet regularly not less than twice a month.
- (b) The mayor, or any two (2) members of the city commission, may call special meetings of the commission. Written notice shall be posted and delivered to each commissioner at least twenty-four (24) hours prior to the meeting.
- (c) The mayor, or any two (2) members of the city commission, may call emergency meetings of the commission. The most appropriate and effective notice under the circumstances shall be provided for emergency meetings. The method of providing notice shall be recorded in the minutes of the meeting.

Sec. 10. All meetings public; rules and order of business; minutes of proceedings.

All meetings of the city commission shall be public, as provided by state statute, and any person shall have access to the minutes and records thereof at all reasonable times. The city commission shall determine its own rules and order of business and shall keep minutes of its proceedings.

Sec. 11. Quorum and legislative procedures.

- (a) Three (3) members of the city commission shall constitute a quorum.
- (b) The affirmative vote of three (3) members shall be necessary to adopt any ordinance or resolution, and the passage of all ordinances and resolutions shall be taken by "yes" and "no" votes entered in the minutes.

Sec. 12. Emergency succession.

Any vacancy or vacancies on the city commission created by death, resignation, disability or absence during grave public emergencies affecting the operation of the city government shall be temporarily filled immediately in the following order: first, city manager; second, city auditor and clerk; third, deputy city manager; fourth, chief of police; and fifth, director of public works.

ARTICLE IV. POWERS AND DUTIES OF CITY COMMISSION

Sec. 1. Powers of city commission.

- (a) The city commission shall be elected to establish policy for the City of Sarasota and shall appoint a city manager, a city auditor and clerk, and a city attorney as provided in Article IV, Section 6, to exclusively administer such policy.
- (b) All powers of the city are hereby vested in the city commission except as otherwise provided in this Charter. The city commission may prescribe by ordinance or resolution the manner in which such powers shall be exercised.

Sec. 2. Enactment of ordinances and resolutions.

- (a) "Ordinance" is an official legislative action of the city commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

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- (b) "Resolution" is an expression of the city commission concerning matters of administration, an expression of a temporary character or a provision for the disposition of a particular item of the administrative business of the city commission.
 - (c) Each ordinance or resolution shall be introduced in writing and shall embrace but one (1) 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 act or section or subsection or paragraph of a section or subsection.
 - (d) A proposed general ordinance shall be read by title or in full on at least two (2) separate days. It shall be noticed once in a newspaper or general circulation in the city at least ten (10) days prior to first reading. The notice of proposed enactment shall state the date, time and place of the public hearing, the title or titles of the proposed ordinance(s), and the place or places within the municipality where such proposed ordinance(s) may be inspected by the public. Said notice shall also advise that interested parties may appear at the public hearing and be heard with respect to the proposed ordinance(s).
 - (e) Ordinances which rezone private real property or deal with land use pursuant to the provisions of the Local Government Comprehensive Planning [and land development] Act [F.S. § 163.3161 et seq.] shall comply with such additional requirements as may be imposed by law from time to time.
 - (f) Ordinances and resolutions shall be submitted to a vote of the city commission and shall not be deemed to be enacted until passed by the affirmative vote of three (3) members on any required reading. Additionally, ordinances adopting certain types of comprehensive plan amendments and resolutions authorizing the transmittal of such comprehensive plan amendments to the department of ~~community affairs~~ economic opportunity, as specified in paragraphs (i) and (j) below, shall not be deemed to be enacted until passed by the affirmative vote of four (4) members on any required reading.
 - (g) Ordinances may be read by title only on first reading, if posted ~~on the bulletin board~~ for public viewing at City Hall for at least three (3) workdays prior to such first reading, and may be read by title only on second reading, whether posted or not.
 - (h) Resolutions may be read by title only, if posted ~~on the bulletin board~~ for public viewing at City Hall for at least (3) workdays prior to such reading.
 - (i) The affirmative vote of four (4) city commissioners shall be required to adopt the following:
 - (1) A resolution authorizing the transmittal of a comprehensive plan amendment described in paragraph (j) below to the department of ~~community affairs~~ economic opportunity and to other governmental agencies in accordance with Section 163.3184(3), Florida Statutes (2006), or a successor statute requiring or allowing such transmittal.
 - (2) An ordinance adopting a comprehensive plan amendment described in paragraph (j) below in accordance with Section 163.3184(7), Florida Statutes, or a successor statute providing for the adoption of amendments to a local comprehensive plan.
 - (j) The "super majority" vote requirement of paragraph (i) above shall be required to adopt transmittal resolutions for the following types of comprehensive plan amendments and to adopt ordinances enacting the following types of comprehensive plan amendments:
 - (1) An amendment to the adopted future land use plan map (Illustration LU-6 of the Future Land Use Map Series) that changes the future land use classification of any parcel of real property depicted on the map whether the change is characterized as a "small scale" or a "large scale" plan amendment. Amendments to assign a future land use classification to a parcel of real property newly annexed into the city which has not previously been classified on the future land use map shall be exempted from the super majority vote requirement for transmittal and adoption and may be transmitted or adopted by simple majority vote of the city commission.

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- (2) An amendment to increase the maximum allowable dwelling unit density, height or floor area ratio within any future land use classification listed in the future land use plan.
 - (3) An amendment to add any new future land use classification to the future land use plan.
 - (k) The super majority vote requirement of paragraph (i) above shall not apply to any votes taken by the City of Sarasota Planning Board/Local Planning Agency when making recommendations to the city commission regarding the transmittal or adoption of any amendment to the comprehensive plan.

(Ord. No. 07-4754, §§ 1—7, 7-16-07)

Editor's note(s)—The charter amendment put before the voters by Ord. No. 07-4754 was approved at an election held on Nov. 6, 2007.

Sec. 3. Emergency ordinances.

The city commission may, by the affirmative vote of at least four (4) of its members, enact an emergency ordinance without complying with the requirements of Article IV, Section 2(d) as provided herein. No emergency ordinance shall enact or amend a land use plan or rezone private real property. No emergency ordinance shall be valid for more than sixty (60) days.

Sec. 4. Record of ordinances.

Every ordinance shall upon its final passage be signed by the mayor or the member of the city commission presiding at the meeting when it was passed and by the city auditor and clerk or ~~his/her~~ the deputy city auditor and clerk. It shall be ~~recorded in a book kept for that purpose~~ retained as a permanent record of the City of Sarasota.

Sec. 5. Effective date of ordinances.

All ordinances passed by the city commission shall become effective immediately when passed on second reading, except that the city commission may provide a later effective date by inserting a provision in such ordinance to that effect.

Sec. 6. Appointment of city manager, city auditor and clerk, and city attorney.

- (a) The city commission shall appoint a city manager, a city auditor and clerk, and a city attorney to exercise the powers, perform the duties and assume the responsibilities hereinafter provided. The city attorney may be retained, as outside legal counsel, or the city commission, at its option, may hire the city attorney as a permanent employee of the city.
- (b) The city commission shall evaluate not less than annually the performances of the city manager, the city auditor and clerk, and the city attorney. The evaluation shall be presented and discussed at a meeting held in accordance with rules and procedures as set forth by resolution.
- (c) The city commission shall approve compensation for the city manager, the city auditor and clerk, and the city attorney if ~~he/she~~ they becomes a permanent employee of the city.
- (d) Individual city commissioners shall be prohibited from giving direct orders to the city manager, city auditor and clerk, and city attorney. The city manager, city auditor and clerk, and city attorney shall be prohibited from carrying out any order directed by one commissioner, unless such order is supported by a majority vote or by consensus of the commission at a public meeting.

Sec. 7. Appointment of acting city manager, acting city auditor and clerk, and acting city attorney.

The city commission may appoint an acting city manager, an acting city auditor and clerk, and an acting city attorney to exercise temporarily the powers and perform the duties of the city manager, the city auditor and clerk, and a city attorney hired as a permanent employee in the event of death, incapacity, suspension, resignation, termination, or any other long-term absence.

Sec. 8. Relationship of city commission with administration.

- (a) *City manager.* To the extent possible, it is the intent of this Charter to clearly indicate lines of demarcation between the duties of the city commissioners to legislate and set policy and the duties of the city manager to administer the day-to-day operation of the affairs of the city as follows:
- (1) Appointment and removal of city officers and employees. The city manager shall have the sole authority for the appointment and the removal of administrative officers and employees of the city other than the city auditor and clerk and the city attorney who shall be appointed and removed by the city commission. Neither the city commission nor any of its members shall in any manner attempt to control or direct the appointment or removal of any such officer or employee. However, this constraint shall not prohibit the city commission or any of its members from fully and freely expressing their views with the city manager.
 - (2) Interference with administration. Except for the purpose of formal inquiries and investigations conducted pursuant to the provisions of Article IV, Section 17, of this Charter, the city commission and its members shall deal with city employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the city commission nor its members shall give orders to any such officer or employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in city government operations by individual commissioners be made to and through the city manager, so that the city manager may coordinate the activities of city departments in order to achieve the greatest efficiency in the management and operation of the affairs of the city.
- (b) *City auditor and clerk.*
- (1) Appointment and removal of employees of the city auditor and clerk. The city auditor and clerk shall have the sole authority for the appointment and the removal of employees of the office of the city auditor and clerk. Neither the city commission nor any of its members shall in any manner attempt to control or direct the appointment or removal of any such employee. However, this constraint shall not prohibit the city commission or any of its members from fully and freely expressing their views with the city auditor and clerk.
 - (2) Interference with administration. Except for the purpose of formal inquiries and investigations conducted pursuant to the provisions of Article IV, Section 17, of this Charter, the city commission and its members shall deal with city employees who are subject to the direction and supervision of the city auditor and clerk solely through the city auditor and clerk, and neither the city commission nor its members shall give orders to any such employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in the operation of the office of the city auditor and clerk by individual commissioners be made to and through the city auditor and clerk, so that the city auditor and clerk may coordinate the activities of this department in order to achieve the greatest efficiency in the management and operation of the affairs of the city.
- (c) *City attorney.*

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- (1) Appointment and removal of employees of the city attorney. The city attorney shall have the sole authority for the appointment and the removal of employees of the office of the city attorney. Neither the city commission nor any of its members shall in any manner attempt to control or direct the appointment or removal of any such employee. However, this constraint shall not prohibit the city commission or any of its members from fully and freely expressing their views with the city attorney.
 - (2) Interference with administration. Except for the purpose of formal inquiries and investigations conducted pursuant to the provisions of Article IV, Section 17, of this Charter, the city commission and its members shall deal with city employees who are subject to the direction and supervision of the city attorney solely through the city attorney, and neither the city commission nor its members shall give orders to any such employee, either publicly or privately. It is the express intent of this Charter, that recommendations for improvement in the operation of the office of the city attorney by individual commissioners be made to and through the city attorney, so that the city attorney may coordinate the activities of this department in order to achieve the greatest efficiency in the management and operation of the affairs of the city.

Sec. 9. Annual audit.

The city commission, at the end of each fiscal year of the city, shall cause the financial statements of the city to be audited by an independent certified public accountant selected by the city commission. Upon completion of the audit, the certified public accountants shall deliver a copy of their management letter to each member of the city commission, the city manager, and the city auditor and clerk. A copy of said audit shall remain on file in the office of the city auditor and clerk. A notice that the audited comprehensive annual financial report is available for public inspection shall be published at least once in a newspaper of general circulation in the city within a period of not more than thirty (30) days after the completion of such audit.

Sec. 10. Budget and table of organization.

The city commission shall approve annually a balanced budget and a table of organization identifying all functions of the city government.

Sec. 11. Surety bonds or insurance.

Annually, the city commission shall either: (1) approve the city manager, the city auditor and clerk, a city attorney hired as a permanent employee, and the finance director of financial services shall to each give bond with authorized corporate sureties be bonded in favor of the City with sureties authorized to issue bonds in the State of Florida, conditioned upon their the faithful performance of duty their duties; or (2) purchase insurance that would provide equivalent or greater coverage to the city. The amount of each bond or alternatively, the amount of insurance coverage, shall be set approved by the city commission annually by resolution, and the bond or insurance premiums shall be paid by the city.

Sec. 12. Duty to levy ad valorem and other taxes.

The city commission shall levy such ad valorem and other taxes authorized by law as necessary and desirable to provide sufficient revenues to carry on the government of the city and to retire any bonded indebtedness.

Sec. 13. Grant of franchises; approval of written contracts, leases, and changes to pension plan—and sale of City owned property.

- (a) All privileges, conferred under any franchise from the city shall be approved by ordinance of the city commission. The affirmative vote of four (4) city commissioners shall be required to adopt an ordinance granting a franchise for a term of greater than ten (10) years.
- (b) The city commission shall approve all contracts of the city (including leases) except for specific contracts declared by ordinance of the city commission to be exempt from this requirement. Contracts so exempted may be administratively approved as provided by ordinance; except that any such administratively approved contract shall not have a term of greater than ten (10) years. The affirmative vote of four (4) city commissioners shall be required to approve any contract to which the city is a party (including leases) in the event the term of the contract (inclusive of all renewal periods) is greater than ten (10) years. The affirmative vote of four (4) city commissioners shall not be required to approve any contract which is terminable at will by the city without cost to the city. This paragraph shall not be construed to require the affirmative vote of four (4) city commissioners to authorize a bond issuance (either general obligation or revenue bond) when the maturity date of the bond(s) is more than ten years after date of issue.
- (c) The affirmative vote of four (4) city commissioners shall be required to approve any change in the terms of the city's pension plan which has the effect of increasing the actuarially accrued liability of the plan, as calculated by the plan's actuary.
- (d) The affirmative vote of four (4) city commissioners shall be required to approve the sale, donation or conveyance of City owned property. The sale, donation or conveyance of any properties listed on the inventory list of properties appropriate for affordable housing required by Sec. 166.0451, Florida Statutes shall be exempt from this requirement.

(Ord. No. 11-4969, § 2, 7-18-11, approved 11-6-12)

Editor's note(s)—Ord. No. 11-4969, § 2, adopted July 18, 2011 and approved Nov. 6, 2012, amended Art. IV, § 13 title to read as herein set out. Former Art. IV, § 13 title pertained to grant of privileges, commercial, and franchise leases.

Sec. 14. Establishment of retirement systems.

The city commission shall provide by ordinance for retirement systems for all employees of the city having permanent status.

Sec. 15. Establishment of boards.

- (a) The city commission shall establish permanent boards by ordinance and ad hoc committees by resolution. Members of such boards shall serve without compensation and shall serve at the pleasure of the city commission for such terms as it deems necessary and desirable. When making appointments, preference shall be given to city residents. All appointees shall be advised in writing of their duties and responsibilities, attendance requirements, length of term, and applicability of the financial disclosure law.
- (b) The city commission may appoint a charter review committee from time to time in its discretion to review all or specifically designated provisions of the charter. However, the city commission shall appoint a charter review committee which has unlimited authority to review the city charter at least once during the ten-year period following the date of adoption of this section and thereafter during every ten-year period following the appointment of the last such charter review committee. The city commission shall by ordinance establish

a procedure for the appointment of all charter review committee members and shall by ordinance further provide for any qualifications for appointment.

(Ord. No. 07-4744, §§ 1—7, 7-16-07)

Editor's note(s)—The charter amendment put before the voters which amended § 15 was approved at an election held on Nov. 6, 2007.

Sec. 16. Municipal services to consumers outside the city.

The city commission is authorized to provide municipal services to persons, firms and corporations located outside the corporate limits of the city. Charges to such consumers shall be determined by the city commission or as provided by state statute, but in no event shall such charges be less than those charged within the corporate limits.

Sec. 17. Investigations.

(a) The city commission shall have the power at any time to cause or conduct an investigation of the affairs of any department, division or employee of the city. For ~~such the purposes of conducting such investigation~~, the city commission shall have the power to compel the attendance of witnesses and the production of books, papers and other evidence through subpoenas issued in the name of the city and signed by the mayor, vice-mayor or acting mayor of the city. Any such processes issued may be served by any officer authorized by law to service process. The city commission in making such investigation shall have the power to cause testimony to be given under oath and shall have the power to apply to any court of competent jurisdiction to punish for contempt any person refusing to testify or to produce any books, papers, documents or other evidence under ~~his/her~~ their control which relates to the matter under investigation.

Sec. 18. Penalties.

The city commission shall have the power to impose by ordinance such fines, penalties and forfeitures as it deems necessary for the enforcement of ordinances of the city.

Sec. 19. Reserved.

~~Editor's note(s)—Ord. No. 11-4969, § 2, adopted July 18, 2011 and approved at a referendum of qualified voters held on Nov. 6, 2011, repealed Art. IV, § 19, which pertained to written contracts and derived from Ord. No. 02-4398, §§ 1—9, adopted Aug. 12, 2002.~~

In January of each year, an item shall be placed on a regular City Commission meeting agenda for the review and discussion of specified provisions of this Charter as determined by the City Manager, the City Auditor & Clerk and the City Attorney. The purpose of this agenda item shall be to keep the City Commissioners familiarized with the provisions of the City Charter.

ARTICLE V. CITY MANAGER

Sec. 1. Appointment and qualifications.

The city commission, by an affirmative vote of at least four (4) members, shall appoint a city manager who shall serve at the pleasure of the city commission. The city manager shall be appointed solely on the basis of professional qualifications. The city manager shall be employed by written contract and shall reside in the city.

Sec. 2. Removal.

The city manager may be removed from office upon the affirmative vote of ~~three (3)~~ four (4) members of the city commission. Written notice of the removal action specifying the effective date of removal shall be promptly provided to the city manager.

Sec. 3. Appointment of deputies.

The city manager may appoint deputies as may be necessary to carry out ~~his/her~~ their duties as provided in the table of organization as adopted by ordinance.

Sec. 4. Appointment of department heads.

The city manager shall appoint department heads as provided in the table of organization as adopted by ordinance.

Sec. 5. Powers and duties.

The city manager shall be the chief administrator of the city and shall be responsible to the city commission for the proper administration of all affairs of the city, including but not limited to those placed under his/her authority in this Charter. The city manager shall:

- (a) Supervise all governmental and proprietary functions of the city and all departments and divisions except the offices of the city auditor and clerk and the city attorney and as otherwise provided in this Charter.
- (b) Annually submit to the city commission a proposed balanced budget together with a table of organization of the city for the ensuing fiscal year, and a five year capital improvements program, the first year of which shall be included in the proposed balanced operating budget.
- (c) Submit the annual budget policy which shall include but not be limited to general policies and procedures for the type of budgeting system being used, and the preparation and maintenance thereof.
- (d) Keep the city commission advised of the financial needs of the city and coordinate long-range planning for the city.
- (e) Establish, with approval of the city commission, such other divisions of responsibility as may be necessary and proper for administering the affairs and performing municipal functions of the city.

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- (f) Appoint, remove, discipline and administer the compensation and salaries for employees of the city, except for those employees in the Offices of the City Auditor and Clerk and the City Attorney, subject to the provisions of this Charter and in accordance with the ordinances and personnel rules and regulations of the city.
 - (g) Promulgate such rules and regulations for appointment, promotion, discipline and removal of employees of the city (except appointees of the city commission); however, such rules and regulations shall not become effective until adopted by resolution of the city commission.
 - (h) Attend city commission meetings, with a voice but not a vote in the proceedings.
 - (i) Sign warrants for payment of monies for the city subject to requirements or ordinances of the city.
 - (j) Be custodian of all real property and tangible personal property of the city.
 - (k) Perform other duties and exercise other authority as necessary to the administration of the city, including the exercise of all duties and responsibilities prescribed by this Charter, by ordinances of the city, and by direction of the city commission.
 - (l) Assume emergency management powers during a state of emergency as specified by ordinance to be adopted by the city commission. said ordinance shall be in accord with the provisions of the Florida Statutes pertaining to the exercise of local emergency management powers and shall not require the city commission to hold a prior special emergency meeting to confer such emergency management powers on the city manager.

(Ord. No. 07-4744, §§ 1—7, 7-16-07)

Editor's note(s)—The charter amendment put before the voters by Ord. No. 07-4744 was approved at an election held on Nov. 6, 2007.

ARTICLE VI. CITY AUDITOR AND CLERK

Sec. 1. Appointment and qualifications.

The city commission, by an affirmative vote of at least four (4) members, shall appoint a city auditor and clerk who shall serve at the pleasure of the city commission. The city auditor and clerk shall be appointed solely on the basis of professional qualifications. The city auditor and clerk shall be employed by written contract and shall reside in the city.

Sec. 2. Removal.

The city auditor and clerk may be removed from office upon the affirmative vote of ~~three (3)~~ four (4) members of the city commission. Written notice of the removal action, specifying the date of removal, shall be promptly provided to the city auditor and clerk.

Sec. 3. Appointment of deputies.

The city auditor and clerk may appoint deputies as necessary to carry out ~~his/her~~ their duties as provided for in the table of organization as adopted by ordinance.

Sec 4. Appointment of department heads.

The city auditor and clerk may appoint department heads as provided in the table of organization as adopted by ordinance.

Sec. 5. Powers and duties.

The city auditor and clerk shall:

- (a) Serve as clerk to the city commission and recorder of all its official actions. Keep a record of the proceedings, the correctness of which shall be certified by vote of the city commission to accept the record at a subsequent meeting.
- (b) Head the department of public records; be custodian of the official records of the city, including those that are in electronic format; be responsible for the proper administration of all affairs concerning the records of the city; ~~and~~ prescribe and be responsible for a system of review, retention and disposition of records of all governmental and proprietary functions of the city and all departments and divisions of the city and prescribe and be responsible for a system of public access to such records.
- (c) Make recommendations ~~or~~ and audit comments concerning ~~the records of all governmental and proprietary functions of the city and all departments and divisions of the city, annually or more frequently if required by the city commission.~~
- (d) Appoint, remove, discipline and administer the compensation and salaries for employees in the Office of the City Auditor and Clerk, subject to the provisions of this Charter and in accordance with the personnel rules and regulations of the city.
- (e) Serve as the election official for the city.
- (f) Attend city commission meetings and serve as parliamentarian to the city commission.
- (g) ~~Serve as the parliamentarian to the city commission.~~ Prepare the agenda and supporting documents for all city commission meetings, including the publication of legal notices.
- (h) Serve as the ~~pension~~ administrator of the ~~General Employees Pension~~ City's Retirement Plans.
- (i) Authenticate documents of the city when required.
- (j) Maintain records of all the city's real property [and] assets and maintain a schedule of all outstanding bonds and other evidence of indebtedness.
- (k) Attest all written contracts and instruments on behalf of the city when required.
- (l) Administer oaths required or authorized under any law, the Charter, or ordinance of the city.
- (m) Sign warrants for payment of monies.
- (n) Countersign checks for payment of monies.
- (o) Provide for the continuing codification of all ordinances of the city.
- (p) Perform other duties as prescribed by law, by the Charter, by ordinance or resolution of the city, and by direction of the city commission.
- (q) Prepare an annual budget to be included in the city manager's proposed budget for consideration during the annual budget workshops.

(Ord. No. 02-4398, §§ 1—9, 8-12-02)

Sec. 6. Audit function of accounts.

At the end of each fiscal year or more often as required by the city commission, the city auditor and clerk shall audit any accounts and records of the departments, officers and employees and all other accounts and records in which the city is interested. He/she shall at all times have access to and may inspect and make copies of all records relating to the receipt or expenditure of money on account with the city and of all vouchers, accounts, bills, warrants, drafts, contracts or other papers relating thereto.

With regard to auditing, the duties of the city auditor and clerk shall include, but not be limited to, reviewing, investigating, and evaluating systems of internal control to promote adequate safeguarding of assets, reliability of financial and operating information and compliance with laws and regulations. The City Auditor and clerk shall have the authority to audit all operations, functions and divisions of the city and to recommend changes for improvements. The city auditor and clerk shall full and unrestricted access to records, data, personnel and other information necessary to effectively carry out the auditing function.

ARTICLE VII. CITY ATTORNEY

Sec. 1. Appointment and qualifications.

The city commission, by an affirmative vote of at least four (4) members, shall retain or hire a city attorney who shall serve at the pleasure of the city commission. The city attorney shall be a member of The Florida Bar and shall have a minimum of five (5) years' experience in the practice of law. A city attorney hired as a permanent employee of the city shall be employed by written contract. The city attorney shall reside in the city.

Sec. 2. Removal.

The city attorney may be removed from office upon the affirmative vote of ~~three (3)~~ four (4) members of the city commission. Written notice of the removal action, specifying the date of removal, shall be promptly provided to the city attorney.

Sec. 3. Appointment of assistants or deputies.

- (a) A city attorney retained may appoint members of The Florida Bar as assistants to perform ~~his/her~~ their duties.
- (b) A city attorney hired as a permanent employee of the city may appoint members of The Florida Bar as deputies as provided for in the table of organization as adopted by ordinance to carry out ~~his/her~~ their duties.

Sec. 4. Duties.

The city attorney shall:

- (a) Serve as legal advisor to the city, the city commission, and the governmental proprietary operations of the city and its departments, divisions, offices, boards and committees as assigned.
- (b) Prepare or review all proposed ordinances and resolutions of the city.
- (c) Approve as to form and legal correctness all written contracts entered into by the city when signatures of the mayor and city auditor and clerk are required. No such contracts shall take effect until his/her approval is endorsed. The city attorney may authorize an assistant attorney to perform this duty during his/her absence.

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- (d) Appoint, remove, discipline and administer the compensation and salaries for employees in the Office of the City Attorney, subject to the provisions of this Charter and in accordance with the ordinances and personnel rules and regulations of the city. (Only applicable if the city attorney is hired as a permanent employee)
 - (e) Prosecute and defend all legal actions wherein the city is a party.
 - (f) Serve as prosecuting attorney for the city in any court of competent jurisdiction.
 - (g) Perform such other legal services as requested by the city commission, city manager, and city auditor and clerk.
 - (h) Prepare an annual budget to be included in the city manager's proposed budget for consideration during the annual budget workshops.

(Ord. No. 02-4398, §§ 1—9, 8-12-02)

ARTICLE VIII. BONDING

Sec. 1. General obligation bonds.

The city commission is hereby authorized and empowered to issue from time to time general obligation bonds of the city for any lawful purpose, including acquiring, constructing, maintaining, operating, improving, enlarging and extending improvements within or outside the corporate limits of the city as may be determined by the city commission; for refunding any preexisting bonded indebtedness; but general obligation bonds of the city shall never be issued in an amount greater than ten (10) percent of the nonexempt assessed valuation of the real property of the city. In arriving at the amount of general obligation bonds outstanding in order to determine the amount of such bonds that may be issued, bonds which have been so refunded shall not be considered unless required by state law.

No general obligation bonds shall be issued by the city unless the issuance of such bonds shall have been approved by vote of a majority of the qualified electors of the city voting on the issuance of such bonds in an election, general or special. Such election shall be called, noticed and conducted, and the result thereof determined and declared in the manner required by law for the issuance of bonds of the city. No election shall be required to authorize the city to refund outstanding general obligation bonds and interest and redemption premium thereon unless such election is otherwise required by Florida law.

For the purpose of paying the principal and interest of the general obligation bonds issued under this section, it shall be the duty of the city commission to levy and collect at the same time and in the same manner as other taxes are collected in the city, upon all taxable property subject to taxation, a tax sufficient to pay the principal and interest of the said bonds as the same become due and payable.

Sec. 2. Revenue bonds.

The city commission is hereby authorized and empowered to issue and refund from time to time revenue bonds of the city payable solely from revenues to be derived by the city from the operation of any revenue-producing utility or facility owned and operated by the city or to be acquired or constructed by the city, or the combination of any such utilities and facilities, for the same purposes for which the city may issue general obligation bonds as authorized by this Charter, for the purpose of constructing or acquiring any of the utilities or facilities or performing any of the works or other matters set forth in this Charter or provided to be a municipal purpose under the laws of the State of Florida; and in the absence of any pledge of the ad valorem taxing power of the city, no election shall be required to authorize the city to issue any such revenue bonds.

Sec. 3. Certificates of participation.

Certificates of participation of the city shall not be issued for any purpose until the question of issuing such certificates of participation shall have been decided in favor thereof by a majority vote of the electors at a referendum held for that purpose in the manner provided by Florida law and by ordinance or resolution of the city commission.

(Ord. No. 11-4976, § 2, 7-18-11, approved 11-6-12)

Editor's note(s)—Ord. No. 11-4979, § 2, adopted July 18, 2011 and approved Nov. 6, 2012, amended Art. VIII, § 3 to read as herein set out. Former Art. VIII, § 3 pertained to pledge of other revenue sources.

Sec. 4. Sale of bonds.

The general obligation bonds and the revenue bonds and any other bonds, notes or other obligations authorized by to this Charter, hereof (hereinafter in this section collectively called the "bonds") shall be sold at public sale unless the city commission shall determine that any such revenue bond shall be sold at private sale, in which event the same may be sold at private sale. Preliminary to any public sale, the city commission, by resolution, shall briefly describe the bonds that will be offered for sale, the purpose for which the same will be issued, and the character of the security therefor; shall affirmatively determine that necessity exists for making such sale; and shall direct the city auditor and clerk to advertise for sealed bids for the purchase of the bonds to be sold unless the city commission shall have determined that such bonds be sold at private sale. Thereupon the city auditor and clerk shall cause an advertisement for sealed bids for the purchase of said bonds to be published at least once prior to the day of sale in a newspaper of general circulation in the City of Sarasota. In such advertisement, notice shall be given that the right is reserved to reject any and all bids; that no interest rate exceeding the maximum rate then permitted under the laws of the state, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, shall be considered. The city commission may determine that bids be accompanied by a check as evidence of good faith and as liquidated damages to the city in the event of acceptance and subsequent failure to perform; and, if such a check is to be delivered, the city commission may determine the amount of said check which may not exceed two (2) percent of the par value of the bonds to be sold. All participating bids shall be received by the time designated therefor, and at that time shall be opened by the officer designated by the city commission for such purpose and presented by such officer to the city commission for action thereon at a regular meeting, or at a special meeting called by it and held for the purpose of acting upon such bids.

Sec. 5. Derivatives prohibited.

In connection with bonds issued by the city, the city shall not enter into any derivatives. For this purpose, a derivative is defined as a financial instrument, the value of which depends on, or is derived from, the value of one (1) or more underlying assets or index or asset values. This definition includes, but is not limited to options, forward contracts, futures, stripped mortgage backed securities, structures notes and swaps.

(Ord. No. 11-4970, § 2, 7-18-11, approved 11-6-12)

Editor's note(s)—Ord. No. 11-4970, § 2, adopted July 18, 2011 and approved Nov. 6, 2012, amended Art. VIII, § 5 title to read as herein set out. Former Art. VIII, § 5 title pertained to further provisions applicable to bonds.

Sec. 6. Authority as to bonds supplemental.

The authority granted to the city by the Charter inclusive of this article to issue general obligation bonds, revenue bonds and other bonds, notes or other obligations shall be deemed to provide an additional and

alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing or hereafter provided under any other law, either general, special or local.

ARTICLE IX. NOMINATIONS ELECTIONS AND REFERENDA

Sec. 1. Eligibility and registration to vote.

- (a) All qualified electors under the laws of the State of Florida who have resided in the city for the period prescribed by law and have registered according to law shall be entitled to vote in elections in the city.
- (b) Registration of electors for all elections in the city shall be conducted by the supervisor of elections of Sarasota County, Florida, unless otherwise prescribed by law or by ordinance of the city.

Sec. 2. Qualifying for office.

Candidates for the office of city commissioner shall qualify by filing for the office with the city auditor and clerk at such time and in such manner as prescribed by ordinance.

Sec. 3. Vacancy in candidacy.

If a candidate who has qualified to run for the office of City Commissioner or the office of Mayor in a regular or special election should die, withdraw, or for any other reason cease to be qualified for the city commission seat, the election shall proceed if at least two (2) qualified candidates remain. If fewer than two (2) qualified candidates remain, the provisions consistent with Article III, Section 5(a), for filling of vacancies shall apply.

Sec. 4. Conduct of elections.

- (a) All elections for the office of city commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation.
- (b) The city commission shall by ordinance or resolution establish polling places, cause notice to be given to the public as to elections and prescribe other election details; however, except as provided in this Charter and by such ordinance or resolution of the city commission, all elections shall be conducted generally as prescribed by law for state and county elections.
- (c) No candidate for the office of city commissioner or for the office of Mayor shall accept a campaign contribution, in cash or in kind services, which would exceed the aggregate amount of ~~two hundred dollars (\$200.00)~~ One Thousand Dollars (\$1,000.00) from any single contributor for each election as provided in Section 106.08(1)(a)2, Florida Statutes. For purposes of this section, the terms "candidate" and "contribution" shall have the meanings ascribed to those terms by Chapter 106, Florida Statutes, as amended from time to time. For purposes of this section, those elections referred to in this charter as the "first election" and the "second election" shall be considered separate elections. The campaign contribution limits contained in this section shall not apply to contributions from political parties or to amounts contributed by a candidate to his or her own campaign. The campaign contribution limits contained in this section may increase or decrease from the amount stated above in the event that Section 106.08 Florida Statutes is amended to increase or decrease the \$1,000.00 campaign contribution limit stated above.

NOTE: Chapter 2021-16, Laws of Florida amended Section 106.08 Florida Statutes to provide that a municipality is expressly preempted from enacting or adopting campaign contribution limits that differ from the limits established by statute. Chapter 2021-16 further provides that any existing limitation or restriction

adopted by a municipality which is in conflict with Chapter 106 is void. This legislation has rendered former Article IX, Section 4(c), which limited campaign contributions to two hundred dollars (\$200.00), null and void.

- (d) ~~No candidate for the office of city commissioner shall accept a campaign contribution from any contributor, other than a natural person. For purposes of this section, a natural person shall mean any human being other than an unemancipated child under the age of eighteen (18).~~ NOTE: Chapter 2021-16, Laws of Florida has rendered former Article IX, Section 4(d), which limited campaign contributions to natural persons, null and void.
- (e) Candidates for the office of city commissioner and for the office of Mayor shall cause their last period candidate treasurer's reports to be delivered electronically or hand delivered to the office of the city auditor and clerk by no later than 5:00 p.m. on the ~~sixth~~ fourth day prior to the date of the election. This deadline may not be extended by the use of a post mark or other courier receipt.

(Ord. No. 07-4755, §§ 1—7, 7-16-07)

Editor's note(s)—Charter amendments placed before the voters by Ord. No. 07-4755 were approved at an election held on Nov. 6, 2006.

Sec. 5. Elections.

(a) *District seats Commissioners.*

- (1) When three (3) or more persons qualify as candidates for one (1) of the ~~three (3)~~ four (4) district seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the Tuesday ~~ten~~ eleven weeks prior to the general election (as defined below), to be known as the first election and to coincide with the primary election prescribed by Florida Statutes.

A second election shall be held on the first Tuesday after the first Monday in November of ~~each~~ every other even numbered year, to be known as the general election and as currently required by Florida Statutes for the purpose of choosing a successor to each elective federal, state, county and district officer whose term will expire before the next general election. The two candidates receiving the highest number of votes cast in the first election shall have their names placed on the ballot for the general election. The candidate receiving the support of a majority of the voters in the general election, in his or her respective district, shall be declared elected.

- (2) When only two (2) persons qualify as candidates for one (1) of the ~~three (3)~~ four (4) district seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the first Tuesday after the first Monday in November of ~~each~~ every other even numbered year, to be known as the general election and the first election shall not be held. The candidate receiving the support of a majority of the voters in the general election, in his or her respective district, shall be declared elected.
- (3) When only one (1) person qualifies as a candidate for a district seat on the city commission the name of such person shall not appear on the ballot, and such person shall be declared elected and shall assume office at the same time and in the same manner as if elected in the general city election.

(b) *At-large seats*

- (1) ~~When four (4) or more persons qualify as a candidate for the office of city commissioner for the two (2) at-large seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election held on the Tuesday ten weeks prior to the general election to be known as the first election and to coincide with the primary election prescribed by Florida Statutes.~~

A second election shall be held, on the first Tuesday after the first Monday in November, to be known as the general election and as currently required by Florida Statutes for the purpose of choosing a successor to each elective federal, state, county and district officer whose term will expire before the next general election, to fill the two (2) at large seats. The three (3) candidates receiving the highest number of votes in the first election shall have their names placed on the ballot for the general election.

The two at large seats shall be filled by declaring the candidates elected who have received the highest number of votes cast in the general election.

- (2) When only three (3) persons qualify as candidates for the two (2) at large seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the first Tuesday following the first Monday in November of each even numbered year, to be known as the general election. The two candidates who receives the highest number of votes in the general election shall be declared elected.
- (3) When only one (1) or two (2) persons qualify as candidates for an at large seat on the city commission, the names of such persons shall not appear on the ballot, and such persons shall be declared elected and shall assume office at the same time and in the same manner as if elected in the general election.

(b) Mayor.

(1) When three (3) or more persons qualify as a candidate for the office of Mayor, the qualifiers shall have their names placed on the ballot for the city election held on the Tuesday eleven weeks prior to the general election to be known as the first election and to coincide with the primary election prescribed by Florida Statutes. A second election shall be held on the first Tuesday after the first Monday in November of every other even numbered year, to be known as the general election and as currently required by the Florida Statutes for the purpose of choosing a successor to each elective federal, state, county and district officer whose term will expire before the next general election to fill the office of Mayor. The two (2) candidates receiving the highest number of votes in the first election shall have their name placed on the ballot for the general election. The candidate receiving the highest number of votes in the general election shall be declared elected.

(2) When only two (2) persons qualify as candidates for the office of Mayor, the qualifiers shall have their names placed on the ballot for the city election to held on the first Tuesday following the first Monday in November of each every other even numbered year, to be known as the general election. The candidate receiving the support of a majority of the voters in the general election shall be declared elected to the office of Mayor.

(3) When only one (1) person qualifies as a candidate for the office of Mayor, the name of such person shall not appear on the ballot and such person shall be declared elected and shall assume office at the same time and in the same manner as if elected in the general election.

~~(c)~~(d) Commencement and length of term. Persons elected to the city commission and to the office of Mayor shall assume office on the Friday following the first Tuesday after the first Monday in November of each even numbered year. Each person elected shall hold office for four (4) years. Terms shall be staggered so that the election for the Mayor is held in an even numbered year and the elections for the four (4) district Commission seats are held in the next even numbered year such that elections for Mayor and for City Commissioners are held in alternating even numbered years.

(Ord. No. 02-4398, §§ 1—9, 8-12-02; Ord. No. 11-4974, § 1, 7-18-11; Ord. No. 18-5254, § 3, 7-16-18, approved by voters 11-6-18)

The following provisions were approved by voters at an election held on November 6, 2007, however, are not effective until the State of Florida certifies IRV software compatible with existing voting machine equipment.

Sec. 5. Elections. [pending regulations]

(a) *Purpose.* The purpose of this section is to describe the method by which all city commissioners will be elected. To help ensure they are elected by majority vote, in an efficient and cost effective process that fosters broad and diverse participation. Instant Runoff Voting shall be required for all elections.

(b) *Definitions.*

Instant Runoff Voting (IRV) means a method of casting and tabulating votes that simulates the ballot counts which would occur if all voters participated in a series of runoff elections with one candidate eliminated after each round of counting. The IRV method allows voters to rank the candidates in order of preference.

Advancing candidate, means a candidate who has not been eliminated.

Continuing ballot means a ballot that is not an exhausted ballot.

Exhausted ballot means a ballot on which there are no choices marked other than choices for eliminated candidates.

(c) *District seats.*

(1) When two (2) or more persons qualify as candidates for one (1) of the three (3) district seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election to be held on the second Tuesday in March. The initial round of counting shall be a count of the first choices marked on each ballot.

(2) If no candidate receives a majority of first choices, there shall be a second round of counting. The candidate with the fewest number of votes shall be eliminated, and all the continuing ballots shall be recounted. Each continuing ballot shall be counted as one vote for that ballot's highest ranked advancing candidate.

(3) If no candidate receives a majority of votes of continuing ballots at the second round of counting there shall be a third round of counting. The candidate with the fewest number of votes shall be eliminated, and all the continuing ballots shall be recounted. Each continuing ballot shall be counted as one vote for that ballot's highest ranked advancing candidate.

(4) The process of eliminating the candidates with the fewest number of votes and recounting all the continuing ballots shall continue until one candidate receives a majority of the votes of continuing ballots in a round. The candidate who receives a majority of the votes of continuing ballots in a round shall be deemed and declared to be elected.

(5) When a ballot becomes an exhausted ballot it shall not be counted in that round or any subsequent round.

(6) When only one (1) person qualifies as a candidate for a district seat on the city commission, the name of such person shall not appear on the ballot, and such person shall be declared elected and shall assume office at the same time and in the same manner as if elected in the regular city election.

(d) *At-large seats.*

(1) When three (3) or more persons qualify as a candidate for the office of city commissioner for the two (2) at-large seats on the city commission, the qualifiers shall have their names placed on the ballot for the city election held on the second Tuesday in March. The initial round of counting shall be a count of the first choices marked on each ballot.

(2) If no candidate receives a majority of first choices, there shall be a second round of counting. The candidate with the fewest number of votes shall be eliminated, and all the continuing ballots shall be

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- recounted. Each continuing ballot shall be counted as one vote for that ballot's highest ranked advancing candidate.
- (3) If no candidate receives a majority of votes of continuing ballots at the second round of counting, there shall be a third round of counting. The candidate with the fewest number of votes shall be eliminated. and all the continuing ballots shall be recounted. Each continuing ballot shall be counted as one vote for that ballot's highest ranked advancing candidate.
 - (4) The process of eliminating the candidates with the fewest number of votes and recounting all the continuing ballots shall continue until one candidate receives a majority of the votes of continuing ballots in a round. The candidate who receives a majority of the votes of continuing ballots in a round shall be deemed and declared to be elected to the first at-large seat.
 - (5) All ballots shall be recounted for the second at-large seat. Ballots shall be tallied excluding the declared winner of the first seat. Any choices for the declared winner of the first at-large seat shall count toward the ballot's next highest choice.
 - (6) Counting shall continue in the same manner as the first at-large seat. The candidate who receives a majority of the votes of continuing ballots in a round shall be deemed and declared to be elected to the second at-large seat.
 - (7) When a ballot becomes an exhausted ballot it shall not be counted in that round or any subsequent round.
 - (8) When only one (1) or two (2) persons qualify as candidates for an at-large seat on the city commission, the names of such persons shall not appear on the ballot, and such persons shall be declared elected and shall assume office at the same time and in the same manner as if elected in the regular city election.
- (e) *Commencement and length of term.* Persons elected to the city commission shall assume office on the third day following the second Tuesday in April. Each person elected shall hold office for four (4) years.
- (f) *Additional provisions.*
- (1) Sample ballots illustrating voting procedures shall be posted in or near all voting booths, and shall be included in the instruction packet for absentee ballots. The city clerk shall ensure ballots are simple and easy to understand. Before the first election to be held using IRV, the city clerk shall conduct a voter education campaign to familiarize voters with the IRV process.
 - (2) Skipped and duplicate rankings: If a voter skips a ranking, the ballot shall be counted for the highest ranked advancing candidate in each round of counting. If a voter gives an equal rank to two or more candidates, the ballot shall be declared exhausted when such multiple rankings are reached.
 - (3) Write-in votes: The ballot shall provide the option for the voter to write-in and rank one individual not listed on the ballot.
 - (4) Ties: In case of a tie between two or more candidates at any stage of the vote tally, the candidate to be eliminated first shall be selected by drawing lots or other equally random selection method.
 - (5) Facilitating ballot counting: If the total number of votes of the two or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate with the next highest number of votes, those candidates with the lowest number of votes may be eliminated simultaneously.
 - (6) Effective date: This section shall go into effect within two years of the date the State of Florida certifies IRV software that is compatible with existing voting machinery used in the city of Sarasota, and shall remain in effect for all subsequent elections thereafter. Nothing in this section shall be construed to obligate the City of Sarasota to initiate or pursue the state certification process.

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- (7) The city commission may waive any part of section 5(f)(2—5) if the state-certified software does not meet the criteria defined in that section. Once the state certifies software that is capable of carrying out the function(s) for which a waiver was sought, provided that software is still compatible with existing equipment, the waiver shall no longer be authorized.

(Ord. No. 02-4398, §§ 1—9, 8-12-02; Ord. No. 07-4719, §§ 1, 7, 2-20-07, approved by voters 11-6-07)

Sec. 6. Canvass of returns; certificates of election.

- (a) The result of the voting at elections or referendum, when ascertained, shall be certified by the supervisor of elections of Sarasota County and delivered to the city auditor and clerk. The city commission, at a meeting to be held on the third day following the election, shall declare by resolution the official results of the election or referendum.
- (b) The city auditor and clerk shall, not later than 12:00 noon on the third day after the election immediately following the declaration of the official results, furnish a certificate of election, to each person shown to have been elected to the office of city commissioner.

(Ord. No. 07-4744, §§ 1—7, 7-16-07)

Editor's note(s)—The charter amendment placed before the voters amending § 6 was approved at an election held on Nov. 6, 2007.

Sec. 7. Recall elections.

Any person who has been elected to the office of city commissioner may be removed from the office by a recall election. The recall election(s) shall be conducted as prescribed by the election code of the State of Florida [F.S. § 97.011 et seq.] as set out in the Florida state statutes.

Sec. 8. Referendum on issuance of bonds.

Any referendum on the question of issuance of bonds whereby the faith and credit of the city is to be pledged to their repayment shall be conducted as prescribed by law and by ordinance or resolution of the city commission authorizing the issuance of such bonds.

ARTICLE X. CHARTER AMENDMENTS

Sec. 1. Proposal of amendments.

- (a) Alternative methods to initiate amendment. Amendments to this Charter may be framed and proposed:
- (1) By ordinance adopted by the city commission setting forth the full text of the proposed amendment.
 - (2) By written petition or petitions to the city commission initiated by the electors setting forth the full text of the proposed amendment and signed in person by qualified electors of the city equal to at least ten (10) percent of the total number of qualified electors registered to vote at the preceding regular at-large city election. In the event that such written petition proposes an amendment to more than one section of the Charter, the petition shall contain a clear and concise summary of the material components of the proposal. All required signatures to petitions initiated by the electors must bear the dates on which each signature is affixed, and all required signatures must be affixed within a period of one hundred eighty (180) days. A copy of a petition initiated by the electors pursuant to this section

must be submitted to the office of the city auditor and clerk prior to or on the date that the first signature is affixed. The one hundred eighty (180) day period in which all required signatures must be affixed to the petition shall commence on the date that a copy of the petition setting forth the full text of the proposed amendment and summary of the proposal, if required, is submitted to and certified as received by the office of the city auditor and clerk. If the required number of signatures is obtained within one hundred eighty (180) days thereafter, then the fully signed petition may be subsequently submitted to the office of the city auditor and clerk, who shall place the petition on a regular or special meeting agenda for presentation to the city commission.

- (b) Action by city commission. In the event a proposed Charter amendment is initiated by the city commission in accordance with Section 1(a)(1) above, or in the event a petition containing the required number of signatures has been certified, submitted to the city auditor and clerk and presented to the city commission in accordance with Section 1(a)(2) above; then the city commission shall adopt an ordinance:
- (1) Providing for the date of the referendum to be held on the proposed Charter amendment, which referendum may be scheduled at a special election or a general election; and
 - (2) Providing for the language to appear on the ballot at the referendum; and
 - (3) Providing for the effective date of the amendment in the event the same is approved by the voters.

Such ordinance shall also schedule the referendum for a date which is no earlier than ninety (90) days following its adoption and not later than the next general election to be held in the city.

In the event a petition containing the required number of signatures has been certified, submitted and presented to the city commission in accordance with Section 1(a)(2) above, then such ordinance shall be adopted within sixty (60) days after the petition has been initially presented to the city commission.

(Ord. No. 02-4398, §§ 1—9, 8-12-02; Ord. No. 11-4971, § 2, 7-18-11, approved 11-6-12; Ord. No. 15-5116, § 2, 1-20-15, approved 5-12-15)

Sec. 2. Referendum on Charter amendments.

- (a) Any proposed amendment to the Charter requiring a referendum shall be submitted to a vote by the electors of the city and may be presented by title, which may differ from its legal title, but in either event shall contain a clear and concise summary describing the substance of the proposed amendment. Below the ballot title and summary shall appear:

_____ For the Amendment

_____ Against the Amendment

- (b) Before any proposed amendment to this Charter is submitted to the electors, the entire text of each article proposed to be amended shall first be published in blackline format (i.e. with proposed deletions stricken through and proposed additions underscored), not less than thirty (30) days nor more than sixty (60) days prior to the date of the referendum, in a newspaper of general circulation in the city.

(Ord. No. 02-4398, §§ 1—9, 8-12-02)

Sec. 3. Adopting of amendment.

Any proposed amendment to the charter adopted by a majority of the qualified electors of the city voting in such referendum shall become effective at the time fixed in the enabling ordinance required by Sec. 1 of this article, or if no time is therein fixed, thirty (30) days after its adoption by the electors.

ARTICLE XI. MISCELLANEOUS PROVISIONS

Sec. 1. Indemnification.

The city commission shall provide for the indemnification of its members, the Charter officers, employees and persons appointed as board or ad hoc committee members for liability arising out of the performance of their duties on behalf of the City of Sarasota. The provisions of the indemnification, including those acts for which the indemnity will be provided and the extent of the indemnification, shall be solely within the discretion of the city commission.

Sec. 2. Oath of office.

Every elected or appointed official, board member and ad hoc committee member serving the city, before entering upon the duties of the office, shall take and subscribe to an oath in the form required for state and county officers under the laws of the state. Such oath shall be filed in the office of the city auditor and clerk.

Sec. 3. Separability clause.

If any article or any part thereof of this Charter as it now exists or as it may be amended is held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not invalidate or impair the validity, force or effect of any other article or part thereof, or any other section or part thereof, unless it clearly appears that such other article or part thereof, or section or part thereof, is wholly or necessarily dependent for its operation upon the article or part thereof, or section or part thereof, held to be invalid or unconstitutional.

Sec. 4. Alternate minimum wage requirements for certain employers.

- (a) *Purpose.* The purpose of this section is to ensure that when taxpayer-financed benefits are extended by the city to private businesses, they are used to benefit the interests of the city as a whole, by creating jobs that keep workers and their families out of poverty. This section therefore requires businesses benefiting from city financial assistance to pay their employees a wage that will enable a full-time worker to support a family at a level that meets basic needs and avoids economic hardship.
- (b) *Definitions.* For purposes of this section:
- (1) *Employee* means any individual who performs work on a full-time, part-time, temporary, or seasonal basis, including permanent workers, temporary workers, contracted workers, contingent workers and persons made available to work through services of a temporary services, staffing or employment agency or similar entity.
 - (2) *Employer* means any individual, partnership, corporation, limited liability company, sole proprietorship, association, joint venture, estate, trust, and any other entity, group or combination acting as a unit, and the individuals constituting such group or unit.
 - (3) *Fiscal year* means October 1 through September 30.
 - (4) *Alternate minimum wage* means, for any given fiscal year, an hourly wage equal to the federal poverty level for a family of four (4), as updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902, or its successor, as of the July 1 immediately preceding the start of the fiscal year, divided by 2,080 and rounded to two decimal places.

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- (5) (A) *Subsidy or tax abatement* means something of economic value, awarded or conveyed to an employer by or through approval of the city. A subsidy or tax abatement includes, but is not limited to, any of the following: contributions or donations of funds, real property or tangible personal property without equivalent consideration; payments for goods provided or services rendered in an amount that exceeds the fair market value for such goods or services; provision of goods, rendering of services or provision of funds or resources necessary for such provision or rendering, when such goods or services inure to the benefit of any private interest; below-market-rate loans; deferrals or reductions of payments due on a loan; reduction in the interest rate of a loan; tax incentives; reduction of or credit towards a tax assessment; fee waivers; tax increment financing; bond financing; rent subsidies; land write-downs (i.e. the donation, sale, lease, assignment, or transfer of land at less than fair market value of property); rebates; contingent obligations assumed by the city, such as any guarantee; and the provision of tangible personal property such as materials, equipment, fixtures, merchandise, inventory, or machinery.
- (B) Subsidy or tax abatement does not include generalized financial assistance, such as that provided through broadly applicable tax reductions; city staff assistance in and of itself; or entry into a contract with the city to provide goods or services at fair market value.
- (C) Whenever any thing of economic value described in sub-paragraph (A) is to be divided into or distributed in identifiable parts, including but not limited to installments, stages, shares or billable portions, subsidy or tax abatement shall refer to each individual part and not to the set of such parts in the aggregate.
- (6) *Subsidies and tax abatements* means the plural form of subsidy or tax abatement.
- (7) *Direct* means, for any given subsidy or tax abatement:
- (A) If funds, appropriated by the city, but not subsequently appropriated by another unit of government; or
- (B) If other than funds, approved by the city, but not subsequently approved by another unit of government.
- A subsidy or tax abatement shall be considered to be a direct subsidy or tax abatement regardless of any involvement by a private or quasi-governmental intermediary or agent subsequent to appropriation or approval by the City.
- (8) *Received* means, for any given subsidy or tax abatement:
- (A) If funds, the date said funds are disbursed to the employer; or
- (B) If other than funds, the earliest date the employer acquires the ability to derive benefit from the subsidy or tax abatement.
- (9) *Extended benefit amount* means the total (gross) amount or value of a subsidy or tax abatement, less the fair market value of any goods provided or services rendered as a condition of receipt of said subsidy or tax abatement, as of the date the subsidy or tax abatement is received, except that any goods provided or services rendered that inure to the benefit of any private interest shall count towards the extended benefit amount. For purposes of this section, inurement to the benefit of a private interest does not preclude the simultaneous fulfillment of a broader public purpose such as economic development.
- (10) *Extended benefit period* means, for any given subsidy or tax abatement, a period of four consecutive fiscal years commencing October 1 of the fiscal year immediately following the date on which said subsidy or tax abatement is received, except that if the total of the extended benefit amounts of all direct subsidies and tax abatements received during the same fiscal year does not exceed \$100,000, there is no extended benefit period.

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- (11) *Covered employee* means any employee of an employer who must be paid an hourly wage not less than the federal minimum wage by said employer pursuant to the federal Fair Labor Standards Act, as amended, and who performs work for said employer a total of five (5) or more hours per week at locations within Sarasota city limits or for purposes that pertain to the specific purpose for which a direct subsidy or tax abatement was awarded or conveyed by the city.
- (c) *Alternate minimum wage for city-subsidized employers.*
- (1) For any given fiscal year, an employer shall be considered to be city-subsidized for purposes of this section:
- (A) As of October 1, if the fiscal year coincides with the unexpired extended benefit period for any direct subsidy or tax abatement received from the city; or
- (B) As of the earliest date such that the total of the extended benefit amounts for all direct subsidies and tax abatements received from the city during said fiscal year exceeds \$100,000.
- All direct subsidies and tax abatements received from the city after the effective date of this section shall be considered for purposes of this subsection, except as provided in subsection (j). Overlapping extended benefit periods shall run concurrently.
- (2) An employer designated as city-subsidized during the fiscal year shall at a minimum retain such status until the end of said fiscal year. Such status may be extended into the next fiscal year in accordance with paragraph (1) of this subsection. However, no employer may be designated as city-subsidized retroactively.
- (3) Every city-subsidized employer with fifty (50) or more covered employees shall pay all such covered employees an hourly wage not less than the alternate minimum wage for all work that is performed at locations within Sarasota city limits or that pertains to the specific purpose for which a direct subsidy or tax abatement is awarded or conveyed by the city, except that an employer not Considered city-subsidized as of the preceding October 1 shall implement the alternate minimum wage within thirty (30) days of the date the subsidy or tax abatement requiring designation as city-subsidized is received.
- (d) *Notice to prospective city-subsidized employers.* Any notice, agreement or contract that offers or obligates a direct subsidy or tax abatement to an employer shall include notification of the applicability and requirements of this section, including the fact that a violation of this section shall constitute a material breach of any such agreement or contract. Failure on the part of the city to provide such notification shall not exempt the employer from such requirements.
- (e) *Annual determination and notification of city-subsidized employers.* Not later than August 1 of each year, the city manager shall inform all employers known to be designated as city-subsidized for the next fiscal year of their status, the revised alternate minimum wage and other requirements of this section. The city manager shall at such time also provide such employers with a notice clearly stating the revised alternate minimum wage and the requirements of this section to employees. The information on the notice shall be provided in both English and Spanish and shall include a telephone number and World Wide Web URL maintained by the city, to which employees and other parties seeking additional information may be directed.
- (f) *Posted notice to employees.* Every city-subsidized employer shall ensure that the notice to employees described in paragraph (e) is visibly and continuously posted in close proximity to other employer notices, wherever such notices are posted.
- (g) *Monitoring and reporting.*
- (1) The city manager shall monitor the compliance of city-subsidized employers with the provisions of this section.
- (2) At the request of the city manager, a city-subsidized employer shall:

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- (A) Provide satisfactory proof of compliance with the provisions of this section.
 - (B) Provide payroll records or other documentation within ten (10) business days of receipt of the city's request.
 - (3) Within thirty (30) days of the end of each fiscal year, every employer designated as city-subsidized for any portion of said fiscal year shall submit to the city manager a report containing all requested information, including but not limited to the monthly average number of covered employees and the monthly average number of such employees whose wages were affected by this section.
 - (4) By February 1 of each year beginning in 2008, the city manager shall submit a report to the city commission containing at a minimum a compilation of information collected pursuant to paragraph (3) of this subsection as well as a summary report of all violations of this section.
- (h) *Retaliation prohibited.* It shall be unlawful for a city-subsidized employer or any other party to discriminate in any manner or take adverse action against any party in retaliation for exercising rights protected under this section. Rights protected under this section include, but are not limited to, the right to file a complaint or inform any party about any alleged noncompliance with this section, and the right to inform any individual of his or her potential rights under this section and to assist him or her in asserting such rights.
- (i) *Violations.*
- (1) Any violation of the provisions of this section shall constitute a material breach of any agreement or contract governing the provision of a subsidy or tax abatement to a city-subsidized employer.
 - (2) Any city-subsidized employer determined by the city manager in his or her whole sole discretion to be in violation of any provision of this section shall:
 - (A) If a first violation of this section, receive a warning notice and immediately pay all current and former covered employees all past due wages earned pursuant to this section.
 - (B) If a second or subsequent violation of this section, the employer shall remit to the city an amount equal to ten (10) percent of the extended benefit amount of any direct subsidy or tax abatement considered in the determination of the employer's status as city-subsidized pursuant to subsection (c), and pay all current and former covered employees all past due wages earned pursuant to this section.
 - (C) If a third or subsequent violation of this section, and such violation is determined by the city manager in his or her sole discretion to be deliberate in nature, the employer shall, in addition to incurring penalties pursuant to sub-paragraph (B), additionally forfeit any subsidy or tax abatement not yet received and shall thereafter be ineligible to receive any subsidy or tax abatement from the city for a period of five (5) years from the date of such determination.
 - (3) Any covered employee or his or her representative may submit a complaint or report of a violation of this section to the city manager. Upon receipt of such a complaint or report, the city manager shall investigate to determine if a violation has occurred. The investigation shall be resolved within ninety (90) days.
- (j) *Exemptions.*
- (1) Any city-subsidized employer that is a not-for-profit corporation organized and operated exclusively for charitable purposes and that is both exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and in compliance with the registration and reporting requirements of Chapter 496, Florida Statutes, as amended, shall be exempt from the requirements of this section.

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- (2) Any subsidy or tax abatement received from the city that is provided solely and directly for the provision of affordable housing to city residents shall be exempt from consideration for purposes of this section.
 - (3) The city commission may grant any employer a partial or complete exemption from the requirements of this section only in the event that the city commission finds that an application of this section that would cause an unremediable violation of federal or state statutes or regulations.
- (k) *Effective date.* This section shall take effect thirty (30) days after enactment by the voters.

(Ord. No. 07-4738, §§ 1—7, 4-4-07)

Editor's note(s)—Ord. No. 07-438 placed before the voters the addition of section 4 to this article which was approved at an election held on Nov. 6, 2007.

ARTICLE XII. TRANSITIONAL PROVISIONS

Sec. 1. Title to property reserved to municipality.

The title, rights and ownership of property, uncollected taxes, dues, claims, judgments, decrees, liens, suits, actions and rights in action held or owned by the municipality shall continue to be vested in the municipality upon the adoption of this Charter. No pending cause shall be abated by reason of the adoption of this Charter.

Sec. 2. Obligation of contracts preserved.

No debt or contract of the municipality, including bonds heretofore issued, shall be impaired or avoided by to the adoption of this Charter; but all such debts and obligations shall continue to be binding upon the municipality following to the adoption of this Charter.

Sec. 3. Transition.

All commissioners, the city manager, the city auditor and clerk, and the city attorney of the city shall continue to hold their respective offices and to discharge the duties thereof until their successors are elected or appointed under the provisions of this Charter. Residency requirements for the city attorney shall not be retroactive.