

DELRAY BEACH CHARTER¹¹

Footnotes:

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Editor's note— This Charter has been amended to reflect and change the name designation of the legislative body from City Council to City Commission and of City Council Members to City Commissioners, pursuant to Ordinance No. 56-88, passed June 28, 1988. The Charter was amended again for clarification and to delete grammatical errors and obsolete references, to reorganize it and to enhance its readability, pursuant to Ordinance No. 62-01, passed Jan. 8, 2002, and Adopted at Referendum March 12, 2002.

ARTICLE I. - CREATION AND POWERS

Section 1.01. - ESTABLISHMENT AND CONTINUATION OF THE CITY OF DELRAY BEACH.

The City of Delray Beach, established and organized by Chapter 25786, Laws of Florida, Special Acts of 1949, as amended, shall continue as a Florida municipal corporation.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 1.02. - POWERS.

The City of Delray Beach shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 1.03. - CONSTRUCTION.

The powers of the City shall be construed liberally in favor of the City. Special Acts of the Florida Legislature pertaining to the jurisdiction and exercise of powers by this City shall be considered amendments to this Charter and shall be incorporated as official amendments to the Charter.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

ARTICLE II. - CORPORATE LIMITS

Section 2.01. - CORPORATE LIMITS.

The boundaries and corporate limits of the City of Delray Beach now existing are continued and may be amended from time to time as provided by law. The boundaries and corporate limits shall be shown on a map maintained in the Planning and Zoning Department.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 2.02. - DELRAY BEACH PLANNING AREA.

The planning area, as shown in the Comprehensive Plan, shall be shown on a map maintained in the Planning and Zoning Department. Those portions of the planning area not now a part of the corporate boundaries may be included by annexation as provided by law.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Editor's note— Ordinance No. 54-86, passed on 9/9/86 and approved by the voters at a referendum election held 11/4/86, provides for the passage of the "Delray Beach Enclave Act (Chapter 86-427, Laws of Florida), "definitions of enclave and of the general boundaries of the City, and annexation of said enclaves within the boundaries of the City as same existed on February 28, 1986.

Section 2.03. - VOLUNTARY ANNEXATION OF TERRITORY BY ORDINANCE.

Voluntary annexation shall occur in accordance with State law. Any annexing ordinance shall state that the boundaries of the City of Delray Beach are redefined so as to include the tract or tracts of land so being annexed.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Editor's note— See F.S. § 171.044

ARTICLE III. - LEGISLATIVE^[2]

Footnotes:

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Editor's note— Ordinance No. 62-01, passed Jan. 8, 2002, and Adopted at Referendum March 12, 2002, amended article III in its entirety and enacted similar provisions as set out herein. The former article III derived from Ord. No. 4-76, passed Feb. 23, 1976, Adopted at Referendum Feb. 2, 1976; Am. Ord. No. 10-83, passed Jan. 25, 1983, Adopted at Referendum March 1, 1983; Am. Ord. No. 82-83, passed Nov. 22, 1983; Am. Ord. No. 83-83, passed Nov. 22, 1983; Am. Ord. No. 108-85, passed Sept. 24, 1985; and Am. Ord. No. 80-91, passed Nov. 19, 1991, Adopted at Referendum 3/10/92).

Section 3.01. - FORM OF GOVERNMENT.

The City of Delray Beach shall operate under the City Commission-City Manager form of government. All legislative powers of the City shall be vested in the City Commission.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.02. - CITY COMMISSION: COMPOSITION, ELIGIBILITY, ELECTION, AND TERMS.

- (A) *Composition and Term.* The City Commission shall be composed of five (5) Commissioners, one of whom shall be duly elected Mayor. All of them shall be elected at large for a term of three (3) years in the manner provided in this Charter.
- (B) *Staggered Terms.* Two (2) Commission seats with terms expiring in 2014 shall be filled by election in 2014 and every three years thereafter. Two (2) Commission seats with terms expiring in 2015 shall be filled by election in 2015 and every three years thereafter. The Mayor's term commencing in 2015 shall be filled by election in 2015 and every three years thereafter.
- (C) *Length of Mayor's Term.* If a special or regular election is held to fill a vacancy in the office of Mayor, the duration of the Mayor's term of office will be for the remainder of the unexpired term.
- (D) *Terms as a Result of a Vacancy.* In the event of vacancies, successors shall be appointed or elected in the manner provided in this Charter.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 63-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 36-12, § 1, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 3.03. - QUALIFICATIONS OF CANDIDATES; ELECTION.

- (A) *Regulation of Qualifications.* The qualifications, time, manner, and costs of qualifying as a candidate for Mayor or Commissioner shall be regulated by Chapter 34 of the Code of Ordinances of the City.
- (B) *Filing of Candidate Petitions.* All candidate petitions shall be filed with the City Clerk no earlier than noon on the last Tuesday in January and no later than noon on the second Tuesday in February of the calendar year in which the election will be held provided; however, if a special election to fill a vacancy in the office of Mayor is to be held, the time for qualifying shall be as provided by this Charter and Chapter 34 of the Code of Ordinances of the City of Delray Beach.
- (C) *Names of Candidates.* The City Clerk shall deliver the names of all candidates and the offices for which they have filed, to the Supervisor of Elections no later than 5:00 p.m. on the first Friday after the close of qualifying.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 63-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.04. - ASSUMPTION OF OFFICE; ORGANIZATIONAL MEETING.

- (A) *Assumption of Office.* The successful candidates for Mayor and Commissioners shall assume office on the last Thursday in March following their election. The Commission shall hold an organizational meeting each year on or after the last Thursday in March, and shall select from the Commissioners other than the Mayor, a Vice-Mayor and a Deputy Vice-Mayor. These two (2) officials shall serve in their respective capacities at the pleasure of the Commission until the organizational meeting of the following year. If the person elected fails to assume office, the procedures set forth in Section 3.08 shall apply to fill the vacancy.
- (B) *Assumption of Office for Appointees and Those Elected at a Special Election.* A person appointed to fill a vacancy in the office of Mayor or Commissioner, or elected Mayor or Commissioner at a special election shall assume office at the first regular meeting of the Commission after being so appointed or elected. If the person so appointed or elected does not assume office, the procedures set forth in Section 3.08 shall apply to fill the vacancy.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 63-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 1, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 3.05. - OATH OF OFFICE.

Before assuming their respective offices, the Mayor and Commissioners shall each take and subscribe to the following oath:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida and of the City of Delray Beach; that I am duly qualified to hold office under the laws of the State of Florida and the Charter and laws of the City of Delray Beach, and that I will well and faithfully perform the duties of {Mayor} {Commissioner} of the City, upon which I am about to enter. (So help me God.)"

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 2, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 3.06. - MAYOR, VICE-MAYOR, AND DEPUTY VICE-MAYOR.

- (A) *Duties of the Mayor.* The Mayor shall preside at meetings of the Commission and represent the City in intergovernmental relationships. The Mayor shall be recognized as the head of the City government for all ceremonial purposes, service of process and by the Governor for purposes of military law. The Mayor shall execute contracts, deeds, intergovernmental agreements and certifications, and other documents on behalf of the City, but shall have no administrative duties except as required to carry out the foregoing responsibilities.
- (B) *Duties of the Vice-Mayor.* In the absence or disability of the Mayor, the Vice-Mayor shall serve as Mayor, possessing all the powers, duties, and prerogatives of the Mayor.
- (C) *Duties of the Deputy Vice-Mayor.* While the Vice-Mayor is serving as Mayor, or in the absence or disability of the Vice-Mayor, or should the Vice-Mayor refuse to perform the duties imposed by law, the Deputy Vice-Mayor shall have all the powers, duties, and prerogatives of the Vice-Mayor.
- (D) *No Veto Power.* The Mayor, Vice-Mayor, and Deputy Vice-Mayor shall each have a voice and a vote in the proceedings of the Commission, but no veto power.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.07. - FORFEITURE OF OFFICE.

- (A) *Forfeiture of Office.* Any Commissioner, including the Mayor, shall forfeit the office if that Commissioner or Mayor:
 - (1) Ceases to possess the required qualifications; or
 - (2) Shall be convicted of a felony; or
 - (3) Violates any standard of conduct or code of ethics established by law for public officials, as determined by a majority vote of the remaining Commissioners and Mayor; or
 - (4) Fails to attend four (4) consecutive regular Commission meetings, unless excused for good cause by a majority vote of the remaining Commissioners and Mayor.
- (B) *Declaration of Vacancies.* It shall be the duty of the remaining Commissioners to declare the office vacant as a result of forfeiture and to fill the vacancy as provided in this Charter.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.08. - VACANCIES; FILLING OF VACANCIES.

The office of a Commissioner, including the Mayor, shall become vacant upon the incumbent's death, resignation, forfeiture, or removal from office in any manner authorized by law. Any vacancy in the membership of the Commission, other than at the close of a regular term, shall be filled according to the following procedure.

(A) *Vacancy in Office of Commissioner.* In the event of a vacancy other than in the office of the Mayor, the remaining Commissioners, including the Mayor, shall appoint, by a majority vote, a qualified person to fill the vacancy.

- (1) If the term of office in which the vacancy occurs expires on the last Thursday in March following the next regular City election, the person so appointed shall only serve until that date.
- (2) If the vacancy occurs sixty (60) or more days preceding the date of the next regular City election, and if the term of office in which the vacancy occurs does not expire on the last Thursday in March following that election, the person so appointed shall serve until the last Thursday in March and the remainder of the unexpired term shall be filled at that election.
- (3) If the vacancy occurs less than sixty (60) days preceding the date of the next regular City election, and if the term of office in which the vacancy occurs does not expire on the last Thursday in March following that election, the person so appointed shall serve for the entire remainder of the unexpired term.
- (4) If a majority of the remaining Commissioners, including the Mayor, are unable to agree, after two (2) regular meetings, upon the appointment of an individual to fill a vacancy. The Commission shall call a special election to fill the vacancy. The special election shall be held within sixty (60) calendar days of the second regular meeting.

(B) *Vacancy in Office of Mayor.*

- (1) If a vacancy in the office of Mayor occurs at least sixty (60) or more calendar days preceding the date of the next regular City election, there will be an election to fill the Mayor's seat which will be held at the time of the next regular City election. If a vacancy occurs in the office of Mayor less than sixty (60) calendar days preceding the date of the regular City election, the Mayor shall be elected at a special election to be held on the second Tuesday in May. If a special election is held to fill the office of Mayor, those persons who previously qualified to run for the Mayor's seat and other candidates who qualify pursuant to this Charter and Chapter 34 of the Code of Ordinances may run for the Mayor's seat to be filled at the special election. Notwithstanding anything to the contrary, the Mayor elected at the special election shall assume office at the first regular meeting after being elected.
- (2) When a vacancy occurs in the office of Mayor, the Vice-Mayor shall automatically succeed to the office of Mayor and shall serve until the last Thursday in March following the next regular City election. Thereafter, the Vice-Mayor shall return to his or her former seat and complete the remainder of his or her Commission term if any part thereof remains unexpired. If a special election is called to fill a vacancy in the office of Mayor, the Vice-Mayor selected at the organizational meeting shall serve until a new Mayor is seated and shall thereafter return to his or her seat.
- (3) The succession of the office of Mayor by the Vice-Mayor shall create a vacancy in the Commission. The vacancy on the Commission shall be filled in the manner set forth in this Charter except the Commissioner appointed to fill the vacancy created on the Commission as a result of a vacancy in the office of Mayor that occurs sixty (60) days or more before the next election shall serve only until the last Thursday in March following the next regular City election. If a vacancy occurs on the Commission as a result of a vacancy in the office of Mayor less than sixty (60) days before the next election, the Commission seat shall remain vacant, notwithstanding anything to the contrary within this Charter until after the assumption of office of the Mayor after the special election.
- (4) If the Vice-Mayor is unable or unwilling to succeed to the office of Mayor, then the Deputy Vice-Mayor shall succeed to the office of Mayor. If the Deputy Vice-Mayor is unable or unwilling to succeed to the office of Mayor, the Commission shall then select a Mayor from the remaining

Commissioners. If the Commission is unable to select a Mayor by the end of the second regular meeting after the vacancy then a special election shall be held for the election of the Mayor.

- (5) If a vacancy occurs in the office of Vice-Mayor, the Deputy Vice-Mayor shall automatically become Vice-Mayor and a new Deputy Vice-Mayor shall be selected by the Commission. If a vacancy occurs in the office of Deputy Vice-Mayor, the Commission shall then select a new Deputy Vice-Mayor.

- (C) *Extraordinary Vacancies.* In the event that all members of the Commission are removed by death, disability, resignation or forfeiture of office, the Governor shall appoint a Commission, including a Mayor, with full Commission powers. The interim Commission shall then call a special election, as provided under this Charter, to fill the appointed offices. The special election shall be held not more than ninety (90) days after appointment of the interim Commissioners.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 63-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 3, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 3.09. - TERM LIMITS.

- (A) *Term Limit.* Individual Commissioners, including the Mayor, shall be prohibited from holding office for more than six (6) consecutive years. However, in the event a Commissioner assumes the office of Mayor, the time that the Commissioner held office as a Commissioner shall not count toward the maximum time allowed to hold the office of Mayor. The person assuming the office of Mayor will be allowed to hold office for a maximum of six consecutive years. This shall apply to any Commissioner who has assumed the office of Mayor on or after the March 2013 municipal election. This extension of term limits does not apply in the case of the Mayor assuming the office of a Commissioner. The term "holding office" shall be defined as serving as Commissioner or Mayor. The term "consecutive years" shall not include any years served as a result of an appointment. Effective for those elected in March of the year 2003 and thereafter, a Commissioner or Mayor may complete the entire term to which they were elected, if a term limit is reached during an elected term.
- (B) *One Year Hiatus.* A person who has served the maximum amount of consecutive time allowed by this Charter as a Commissioner or Mayor shall not assume office again until the last Thursday in March of the year following the expiration of his or her term of office.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 64-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 38-12, § 1, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 3.10. - SALARIES AND EXPENSES.

- (A) *Salaries.* The Commission may determine the annual salaries of the Mayor and individual Commissioners by ordinance. No ordinance increasing the Mayor or Commissioner salaries shall become effective until the assumption of office of the Commissioners or Mayor elected at the next regular City election, provided that election follows adoption of the ordinance by at least six (6) months.
- (B) *Actual Expenses.* Commissioners, including the Mayor, shall receive their actual and necessary expenses incurred in the performance of their duties, as provided by law.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.11. - PROHIBITIONS.

- (A) *Appointment or Removal of Employees.* Neither the Commission, nor any of its members, shall in any manner control the appointment or removal of any City officers or employees whom the City Manager or any of his or her subordinates are empowered to appoint. The Commission or any of its members may, however, express views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of these officers and employees.
- (B) *Direction to Employees.* Except for the purpose of inquiries and investigations, the Commission and its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager, solely through the City Manager. Neither the Commission nor its members shall give orders to any of those officers or employees, either publicly or privately. The foregoing does not prohibit individual members of the Commission from closely scrutinizing, by questions and personal observations, any aspect of City government operations in order to obtain information to assist in formulation of Commission policies. Recommendations for improvement in City government operations shall, however, be made to and through the City Manager, so that he or she may coordinate the efforts of all City departments.
- (C) *Holding City Office or Employment.* No former member of the Commission shall, within the City, hold any compensated appointive City office or employment with the City until one (1) year after the expiration of the term for which he or she was elected or appointed.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.12. - PROCEDURE.

- (A) *Meetings.* The Commission shall meet regularly at least twice a month at times and places that the Commission prescribes by rule or otherwise. Special meetings may be held on the call of the Mayor or of a majority of the commission. Whenever practicable, there shall be at least twelve (12) hours' notice of a special meeting to individual members of the Commission and to the public.
- (B) *Rules.* The commission shall determine its own rules and order of business.
- (C) *Quorum and Voting.*
 - (1) A quorum for the transaction of business shall consist of three (3) members, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the Rules of the Commission.
 - (2) Voting on ordinances, resolutions, and motions shall be as set forth below and shall be recorded in the minutes.
 - (3) Except as otherwise provided in the Charter, no action of the Commission shall be valid or binding unless adopted by the affirmative votes of at least three (3) members of the Commission, and, if any motion fails to achieve the affirmative vote of at least three (3) members of the Commission, then such motion shall be deemed to have failed and no action shall be taken by that motion. In the event that there are less than three (3) members of the Commission who are eligible to vote on a particular matter due to vacancy or required abstention pursuant to applicable state or county law, then the remaining member(s) of the Commission may vote and approve such matter by unanimous vote.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 01-13, § 1, passed 2/5/13, Adopted at Referendum 3/12/13; [Ord. No. 32-13, § 1, passed 12/3/13, Adopted at Referendum 3/11/14](#).)

Section 3.13. - COMMISSION INVESTIGATIONS.

Upon direction from the Commission, the City Clerk shall have the power to issue any writs, processes, and subpoenas needed to facilitate any investigation convened by the Commission for a municipal purpose.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.14. - PLANNING AND ZONING BOARD AND BOARD OF ADJUSTMENT.

- (A) *Planning and Zoning.* The Commission has created and shall, in the interest of the public health, safety, order, convenience and general welfare, maintain by ordinance a Planning and Zoning Board to make recommendations to the Commission.
- (B) *Board of Adjustment.* The Commission has created and shall maintain a Board of Adjustment, whose decisions may be appealed pursuant to general law.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 3.15. - ALIENATION OF PUBLIC BEACHES.

The Commission shall not in any manner alienate from the public, the public beach, lying between the north and south boundaries of Section 16, Township 46 South, Range 43 East, or any part thereof, of the City of Delray Beach, Florida.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

ARTICLE IV. - ADMINISTRATIVE-EXECUTIVE

Section 4.01. - CITY MANAGER.

There shall be a City Manager who shall be the chief administrative officer of the City. He or she shall be responsible to the Commission for the administration of all City affairs placed in his or her charge by or under this Charter and such other duties as may be required by the Commission.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.02. - APPOINTMENT; REMOVAL; COMPENSATION.

- (A) *Appointment.* The Commission shall appoint a City Manager for an indefinite term by majority vote of the Commission, to serve at the pleasure of the Commission.
- (B) *Removal.* The City Manager shall only be terminated by the City Commission upon the casting of three (3) affirmative votes in favor of such termination. Said vote shall not take place except at a public hearing which has been duly noticed seventy-two (72) hours in advance of the meeting at which the vote takes place.
- (C) *Replacement.* Upon the death, resignation, incapacity, or termination of the City Manager, the Commission shall appoint an Acting City Manager and thereafter, within a reasonable time, appoint a regular City Manager.
- (D) *Compensation.* The Compensation of the Manger shall be fixed by the Commission.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 8-83, passed 1/25/83, Adopted at Referendum 3/1/83; Am. Ord. No. 37-90, passed 8/28/90, Adopted at Referendum 11/6/90; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 4, passed 10/16/12, Adopted at Referendum 3/12/13; Ord. No. 39-12, § 1, passed 10/16/12, Adopted at Referendum 3/12/13; [Ord. No. 17-14, § 1, passed 6/17/14](#), Adopted at Referendum 8/26/14)

Section 4.03. - ACTING CITY MANAGER.

By letter filed with the Commission, the Manager shall designate, subject to approval of the Commission, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his or her temporary absence or disability. During such absence or disability, the Commission may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his or her disability shall cease.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.04. - POWERS AND DUTIES OF THE CITY MANAGER.

(A) *Powers of the City Manager.* The City Manager shall have the following powers and duties:

- (1) Appoint and, when he or she deems it necessary for the good of the City, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. All appointments and promotions of City officials and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence. The City Manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.
- (2) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.
- (3) Attend all Commission meetings and shall have the right to take part in discussion, but may not vote.
- (4) See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by him or her or by officers subject to his or her direction and supervision, are faithfully executed.
- (5) Submit to the Commission and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (6) Make such other reports as the Commission may require concerning the operations of City departments, offices and agencies subject to his or her direction and supervision.
- (7) Keep the Commission fully advised as to the financial condition and future needs of the City and make such recommendations to the Commission concerning the affairs of the City as he or she deems advisable or as the Commission may require.
- (8) Sign contracts on behalf of the City pursuant to the provisions of this Charter, provisions of appropriation ordinances and where authorized by ordinance, resolution or by motion (see Section 4.09).
- (9) Perform such other duties as are specified in this Charter or may be required by the Commission.

- (B) *Prohibition.* The City Manager shall not adopt and provide personnel policies or personnel rules pursuant to this Charter that apply to any of the City's employees who are covered by a collective bargaining agreement that is subject to renegotiation, unless otherwise expressly provided in said personnel policies, personnel rules, or collective bargaining agreement.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.05. - BUDGET PROCEDURE.

- (A) *Fiscal Year.* The fiscal year of the City shall begin on the first day of October, and end on the thirtieth day of September of the following year. Such year shall constitute the budget year of the City government, and whenever the word year appears in this Charter it shall be construed as meaning the fiscal year of the City unless otherwise indicated.
- (B) *Budget Submission.* The City Manager shall submit his or her recommended budget for the ensuing fiscal year to the Commission on or before the first regular meeting in August. Complete copies of the proposed budget shall be on file and available to the public for inspection during office hours in the office of the City Clerk, commencing the following business day.
- (C) *Budget Document Requirements.* The budget document shall present a complete financial plan for the ensuing fiscal year. It shall include, at least, the following information:
- (1) Detailed estimates of all proposed expenditures for each department and office of the City, showing the expenditures for corresponding items for the last preceding and current fiscal years with reasons for increases and decreases recommended, as compared with appropriations for the current year;
 - (2) Statements of the bonded and other indebtedness of the City, showing the debt reduction and interest requirements, the debt authorized and unissued, and the conditions of the sinking funds, if any;
 - (3) Detailed estimates of all anticipated income of the City from sources other than taxes and borrowing, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal years;
 - (4) A statement of the estimated balance or deficit, as the case may be, for the end of the current fiscal year;
 - (5) An estimate of the amount of money to be raised from current and delinquent taxes, and the amount to be raised from bond issues which, together with income from other sources, will be necessary to meet the proposed expenditures;
 - (6) Such other supporting schedules as the Commission may deem necessary.
- (D) *Public Hearing.* A public hearing on the budget shall be held in accordance with State Law. A condensed copy of the proposed budget shall be available to the public prior to the public hearing.
- (E) *Budget Adoption/Appropriations.* At the second regular Commission meeting in the month of September of each year, the Commission shall, by resolution, adopt the budget for the next fiscal year, and shall, in such resolution, make an appropriation for the money needed for municipal purposes during the ensuing fiscal year of the City. The resolution shall also provide for a levy of the amount necessary to be raised by taxes upon real and personal property for municipal purposes, which levy shall not, for the general operating expenses of the City, in any event exceed the millage limitation as provided by State law on the assessed valuation of all real and personal property subject to taxation in the City. Should the Commission take no final action during said meeting, the budget as submitted, shall be deemed to have been finally adopted by the Commission.
- (F) *Expenditures.* No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except pursuant to the budget appropriations. The Commission

may transfer any unencumbered appropriation balance, or any portion thereof, from one department, fund or agency to another. The balance in any appropriation which has not been encumbered at the end of the fiscal year shall revert to the General Fund and be reappropriated during the next fiscal year.

- (G) *Financial Data.* At the beginning of each quarterly period during the fiscal year, and more often if required by the Commission, the City Manager shall submit to the Commission data showing the relation between the estimated and actual income and expenses to date; and if it shall appear that the income is less than anticipated, the Commission shall reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the income.
- (H) *Deposits/Depositories.* The Commission shall designate the depository or depositories for City funds, shall provide for the regular deposit of all City monies, and shall provide for the proper security of all City deposits.
- (I) *Audit.* An independent audit shall be made of all accounts of the City government at least annually, and more frequently if deemed necessary by the Commission. Such audit shall be made by certified public accountants experienced in municipal accounting, and who shall have no personal interest, direct or indirect, in the fiscal affairs of the City government or of any of its officers. The condensed audit shall be available to the public within thirty (30) days after receipt of the same. An annual report of the City business shall be made available to the public by the City Manager in such form as will disclose pertinent facts concerning the activities and finances of the City government.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 5, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 4.06. - SUPERVISOR OF DEPARTMENTS.

With the approval of the Commission, the Manager may serve as the head of one or more departments, offices, or agencies or may appoint one person as the head of two (2) or more of them.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.07. - LEGAL COUNSEL.

There shall be a City Attorney and such Assistant City Attorneys and special counsel as the Commission shall deem necessary. They shall be responsible to the Commission for all legal matters of the City placed in their charge by or under this Charter and such other duties as may be required by the City Commission.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.08. - LEGAL COUNSEL APPOINTMENT, REMOVAL AND COMPENSATION.

- (A) *Appointment.* The Commission shall appoint a City Attorney, such Assistant City Attorneys and special counsel as may be deemed necessary. The City Attorney and Assistant City Attorneys, if any, shall be appointed by Commission for an indefinite term by majority vote of the Commission. Special counsel may be appointed as the need arises.
- (B) *Removal.* The City Attorney and special counsel, at all times, shall hold office at the pleasure of a majority of the Commission. Assistant City Attorneys may be removed with or without cause by the City Attorney.

- (C) *Compensation.* The Commission may, from time to time, fix the regular compensation of the City Attorney, and Assistant City Attorneys, if any, at a sum commensurate with the duties which may be imposed on them by this Charter and by the Commission; provided, that all special or unusual services required of the City Attorney and Assistant City Attorneys, if any, may be specially compensated as the Commission may see fit to provide.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 9-83, passed 1/25/83, Adopted at Referendum 3/1/83; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.09. - DUTIES OF LEGAL COUNSEL.

- (A) *Duties.* The City Attorney with the assistance of the City Clerk shall prepare all ordinances, all contracts and other instruments in writing in which the municipality is concerned, or shall endorse on each, his or her approval as to form. No contract with the municipality shall be binding upon the municipality until the City Attorney has endorsed his or her approval thereon, and this provision shall be strictly construed by all courts of this State. When required by the Commission, the City Attorney shall prosecute and defend, for and in behalf of the City, all complaints, suits and controversies in which the City is a party.
- (B) *Opinions.* The City Attorney shall furnish the Commission, City Manager, and Department Heads his or her opinion on any questions of law relating to their respective powers and duties; and he or she shall perform such other professional duties as may be required of him or her by ordinance, resolution or motion of the Commission, by this Charter, or by special acts.
- (C) *Assistant City Attorneys.* Assistant City Attorneys shall perform those duties assigned them by the City Attorney.
- (D) *Special Counsel.* Special counsel shall perform those duties assigned them by Commission.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 4.10. - INTERNAL AUDITOR APPOINTMENT, QUALIFICATIONS, REMOVAL AND COMPENSATION.

- (A) *Appointment .* The City Commission may appoint an Internal Auditor as may be deemed necessary for an indefinite term by majority vote of the Commission. The Internal Auditor shall report directly to the City Commission and be employed under such terms and conditions as the City Commission may deem advisable.
- (B) *Qualifications .* The individual appointed to the position of Internal Auditor shall be a person who holds and maintains an active license to practice public accounting pursuant to F.S. ch. 473, as may be amended from time to time, and shall have sufficient experience in governmental accounting and auditing practices.
- (C) *Removal .* The Internal Auditor shall hold office at the pleasure of a majority of the Commission.
- (D) *Compensation .* The City Commission may, from time to time, fix the regular compensation of the Internal Auditor at a sum commensurate with the duties which may be imposed on them by this Charter and by the City Commission.

(Ord. No. [31-15](#), § 2, passed 11/17/15)

Section 4.11. - DUTIES OF INTERNAL AUDITOR.

- (A) *Duties .* The Internal Auditor shall follow governmental auditing standards and shall review business practices, procedures, internal controls and procurement practices which are used, employed and

promulgated by the City of Delray Beach. The Internal Auditor shall also be responsible for the performance of such other duties assigned by the City Commission. The Internal Auditor shall review any matter related to city business upon the request of a majority of the City Commission or the City Manager.

- (B) *Authority*. To the degree necessary to fulfill the responsibilities of the office, the Internal Auditor shall have the power and authority to:
- (1) Conduct financial and compliance, economy and efficiency, and performance audits of city government and city officials with written reports submitted to both the City Commission and the City Manager.
 - (2) Have free and unrestricted access to government employees, officials, records, and reports and, where appropriate, require all branches, departments and officials of city government to produce documents, files and other records.
 - (3) Employ such other administrative, professional, expert and clerical assistance as is necessary, subject to City Commission approval, to carry out the Internal Auditor's required duties.

(Ord. No. [31-15](#), § 2, passed 11/17/15)

ARTICLE V. - ELECTIONS

Section 5.01. - ELECTORS.

Any person who is a resident of the municipality, who has qualified as an elector of this State, and who Registers in the procedural manner prescribed by general law and ordinance of the municipality, shall be a qualified elector of the municipality.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 5.02. - TYPES OF ELECTIONS.

Elections to be held in the City shall all be conducted on a nonpartisan basis without regard for or designation of political party affiliation.

- (A) *Date of Municipal Nonpartisan Election*. Municipal nonpartisan elections shall be held on the second Tuesday in March of each year in which a term of the Mayor or Commissioner expires.
- (B) *Ties*. In case of a tie in the municipal nonpartisan election, a second nonpartisan election shall be held.
- (C) *Special Election*. All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special elections.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 7-83, passed 1/25/83, Adopted at Referendum 3/1/83; Am. Ord. No. 79-91, passed 11/19/91, Adopted at Referendum 3/10/92; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 36-12, § 2, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 5.03. - FORM OF BALLOTS.

- (A) *Arrangement of names on ballot*. The names of the candidates for each Commission office seat and for the office of Mayor shall be arranged separately and alphabetically and nothing on the ballot shall be indicative of the source of the candidacy of any candidate.

- (B) *Ballot Title.* A charter amendment, initiative petition or referendum ordinance to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice.
- (C) *Ballot Form.* Immediately below the ballot question shall appear the word "yes" and the word "no" with a blank space thereafter to indicate the voter's choice. The word "yes" shall mean the question is approved. The word "no" shall mean the question is not approved.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 99-85, passed 9/24/85, Adopted at Referendum 11/5/85; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 5.04. - ELECTIONS GENERALLY.

- (A) *Number of Votes per Elector.* Each elector shall be entitled to vote for each of the vacant seat numbers for the office of Commissioner and shall also be entitled to one vote for a candidate for the office of Mayor when there is a vacancy in that office; provided, however, no elector shall be entitled to cast more than one vote for any candidate.
- (B) *Highest Number of Votes to Elect in First Nonpartisan Election.* In a nonpartisan election, a candidate for each of the seats on the ballot for the offices of Commissioners or for the office of Mayor who receives the highest number of votes even if it is not a majority of the votes cast by all electors casting ballots for that office shall be declared to be elected; provided, however, notwithstanding the foregoing provision, should two (2) or more candidates tie for the highest number of votes from all electors casting ballots for that seat for Commissioner or for the office of Mayor, then the candidates receiving the highest number of votes shall be declared candidates for the second nonpartisan election.
- (C) *If One Person Qualifies for a Seat.* In the event that not more than one person qualifies as a candidate for each of the seats for the offices of Commissioners or for the office of Mayor in the nonpartisan election, then an election shall not be held. Each candidate shall be deemed to have voted for himself or herself.
- (D) *If No Person Qualifies or Assumes Office.* If no person qualifies as a candidate for any particular seat for the office of Commissioner or for the office of Mayor or assumes office, then those seat(s) shall be declared vacant and it shall be the duty of the members of the Commission who are seated following the organizational meeting provided for in Section 3.04 of this Charter, by majority vote to appoint a qualified person to fill the vacancy. The member(s) appointed to fill a vacancy in the office of Commissioner or the office of Mayor shall serve as provided by Section 3.08 of this Charter.
- (E) *Candidates for Second Nonpartisan Election.*
 - (1) In the second nonpartisan election, there shall be on the ballot those candidates for seats for the office of Commissioner or for the office of Mayor for those offices wherein candidates tied for the highest number of votes from all electors casting ballots for that seat or office in the first nonpartisan election. The names of the candidates to be voted upon at the second nonpartisan election shall be the candidates which tie for the highest number of votes in the nonpartisan election.
 - (2) In the event a candidate withdraws or dies before the second nonpartisan election and leaves only one candidate for each vacancy for a seat for the office of Commissioner or for the office of Mayor to be filled, then the second nonpartisan election shall not be held for that office. Each candidate shall be deemed to have voted for himself or herself.
- (F) *Method of Election in a Second Nonpartisan Election.* In the second nonpartisan election, the remaining offices shall be filled by the candidate(s) receiving the highest number of votes for each seat for the office of Commissioner or for the office of Mayor.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 68-78, passed 9/25/78, Adopted at Referendum 11/7/78; Am. Ord. No. 7-83, passed 1/25/83, Adopted at Referendum 3/1/83; Am. Ord. No. 99-85, passed 9/24/85, Adopted at Referendum 11/5/85; Am. Ord. No. 79-91, passed 11/19/91, Adopted at Referendum 3/10/92; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 6, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 5.05. - RETURNS OF ELECTIONS.

- (A) *Canvassing the Returns.* The results of the voting, when ascertained by the Supervisor of Elections, shall be returned in duplicate; one copy to be delivered to the Mayor and the other to the City Clerk, both of whom shall transmit such returns to the Commission at a meeting to be held not later than three (3) days after such election. At such meeting the Commission shall canvass the returns and, in the absence of a declaration of a contest by any of the candidates in such election, shall declare the results of the election as shown by the returns made by the Supervisor of Elections.
- (B) *Certificates of Election.* The City Clerk, not later than noon the second day thereafter, shall furnish a certificate of election to each person shown to be elected.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 2-82, passed 1/26/82, Adopted at Referendum 3/2/82; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 5.06. - JUDGE OF ELECTION AND QUALIFICATION.

The Commissioners shall be the judge of the qualifications of its own members, and the City Clerk shall be the judge of the election and election returns for the office of Mayor and for the offices of Commission seats.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Am. Ord. No. 101-85, passed 9/24/85, Adopted at Referendum 11/5/85; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 5.07. - SPECIAL ELECTIONS.

- (A) *Special Election Rules.* The Commission shall provide the time, manner, and means of holding any special election, provided that no special election shall be called less than thirty (30) days following the adoption of a resolution calling for such election.
- (B) *Method and Manner Set Forth by Ordinance.* The Commission shall prescribe by ordinance the method and manner of holding all elections in the City, and shall provide when and how special elections shall be called and held which are not provided by the terms of this charter. All elections shall be conducted in accordance with this Charter and with the provisions of general law.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 5.08. - STRAW VOTE ELECTIONS.

The Commission is also empowered and authorized to spend public funds for the conduct of straw vote elections upon a determination by the Commission that it is in the best interest of the City to obtain an expression of the people with respect to a particular municipal question. The Commission shall have

the right to hold a straw vote election at any time, and may prescribe limitations relating to the eligibility of those who shall be qualified to participate. The results of said election shall not be binding on the Commission.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 5.09. - RECALL.

The electors of the City shall have the power to recall and to remove from office any elected official of the City as provided by general law.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

ARTICLE VI. - INITIATIVE, REFERENDUM

Section 6.01. - INITIATIVE.

The electors of the City shall have the power to propose ordinances to the Commission. If the Commission fails to adopt an ordinance so proposed without any change in substance, the ordinance may be approved or rejected at a City election, if the provisions of this Article are met. However, no ordinance relating to or affecting the budget, capital program, appropriation of money, levy of taxes or salaries of City officers or employees shall be allowed to be brought forward as an initiative.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 6.02. - REFERENDUM.

The electors of the City shall have power to require reconsideration by the Commission of any adopted ordinance. If the Commission fails to repeal an ordinance brought forward for reconsideration, the issue may be approved or rejected at a City election if the provisions of this Article are met. However, no issue shall be allowed to be brought forward for reconsideration that relates to or affects the budget, capital program, any emergency ordinance, or ordinance relating to appropriation of money, levy of taxes, or salaries of City officers or employees.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 6.03. - COMMENCEMENT OF PROCEEDINGS.

- (A) *Petitioners Committee.* Any five (5) electors may commence either initiative or referendum proceedings by filing with the City Clerk or other official designated by the Commission (hereinafter both officials shall be referred to as "City Clerk") an affidavit stating they will constitute the petitioners' Committee and be responsible for circulating the petition and filing it in proper form, stating their names, and addresses, and specifying the address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

- (B) *Issuance of Petition Blanks.* Promptly after the affidavit of the petitioners' Committee is filed, the City Clerk may, at the Committee's request, issue the appropriate petition blanks to the petitioners' Committee at the Committee's expense.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 6.04. - FORM OF PETITIONS.

- (A) *Number of Signatures.* Initiative and referendum petitions must be signed by electors of the City equal in number to at least fifteen (15) percent of the total number of electors Registered to vote at the last regular City election.
- (B) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the printed name, address, precinct number, and date the person signed the petition. Petitions shall contain, or have attached thereto throughout their circulation, the full text of the ordinance proposed or sought to be reconsidered.
- (C) *Affidavit of Circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (D) *Time for Filing Initiative Petitions.* Initiative petitions must be filed within sixty (60) days of the first signature thereon and signatures may not be procured prior to the time of commencement of proceedings as set forth in Section 6.03. When the petitions have been filed, the City Clerk shall submit the same to the Commission at its next regular meeting and provisions shall be made by the City Clerk for public hearings upon the proposed ordinance.
- (E) *Time for Filing Referendum Petitions.* Referendum petitions must be filed within sixty (60) days after adoption by the Commission of the ordinance sought to be reconsidered.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 6.05. - PROCEDURE FOR FILING.

- (A) *Certificate of City Clerk; Amendment.* Within twenty (20) days after the initiative petition is filed and five (5) days after a referendum petition is filed, the City Clerk shall complete a certificate as to its sufficiency. The certificate shall specify any deficiencies and defects and the City Clerk shall promptly send a copy of the certificate to the petitioners' Committee by Certified mail. Grounds for insufficiency are only those specified in Section 6.04. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' Committee files a notice of intention to amend it with the City Clerk within two (2) days after receiving the copy of his or her certificate and files a supplementary petition within ten (10) days after receiving the copy of such certificate. Additional signatures may be gathered in this ten (10) day period in order to meet the minimum required number of electors. Such supplementary petition shall comply with the requirements of subsections (B) and (C) of Section 6.04. Within five (5) days after it is filed the City Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' Committee by Certified mail as in the case of an original petition.
- (B) *Final determination of Sufficiency by City Clerk.* If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' Committee

does not elect to amend or request Commission review under subsection (C) of this Section within the time required, the City Clerk shall promptly present his or her certificate to the Commission and the certificate shall then be a final determination as to the sufficiency of the petition.

- (C) *Commission Review.* If a petition has been certified insufficient and the petitioners' Committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the Committee may, within two (2) business days after receiving the copy of such certificate, file a request for review by the City Commission and the Commission's determination of sufficiency of the petition, shall be the final determination.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02; Ord. No. 35-12, § 7, passed 10/16/12, Adopted at Referendum 3/12/13)

Section 6.06. - REFERENDUM PETITIONS SUSPENSION OF EFFECT OF ORDINANCE.

When a referendum petition is filed with the City Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition; or
- (2) The petitioners' Committee withdraws the petition; or
- (3) The Commission repeals the ordinance; or
- (4) After a vote of the City on the ordinance has been certified.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 6.07. - ACTION ON PETITIONS.

- (A) *Action by Commission.* When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance in the manner provided by general law for passage of ordinances or reconsider the referred ordinance by voting its repeal. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the voters of the City.
- (B) *Submission to Voters.* The vote of the City on a proposed or referred ordinance shall be held not less than thirty (30) days and not more than sixty (60) days from the date that the petition was determined sufficient. If no regular City election or no general or primary election is to be held within the period described in this subsection, the Commission shall provide for a special election, except that the Commission may in its discretion provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (C) *Withdrawal of Petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four (4) members of the petitioners' Committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 6.08. - RESULT OF ELECTION.

- (A) *Initiative*. If a majority of the electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (B) *Referendum*. If a majority of the electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Editor's note— This Article VI shall apply to all initiative and referendum situations within the City, unless otherwise governed by F.S. Sections 166.031, 171.0413 and 171.051.

ARTICLE VII. - TRANSITION SCHEDULE

Section 7.01. - CONTINUATION OF FORMER CHARTER PROVISIONS.

All provisions of Chapter 25786, Laws of Florida, Special Acts 1949, as amended by special law or otherwise, which are not embraced herein and which are not inconsistent with this Charter shall become ordinances of the City subject to modification or repeal in the same manner as other ordinances of the City.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 7.02. - ORDINANCES PRESERVED.

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

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 7.03. - RIGHTS OF OFFICERS AND EMPLOYEES.

Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are City officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof.

(Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 7.04. - PENDING MATTERS.

All rights, claims, actions, orders, contracts, and legal or administrative proceedings involving the City shall continue except as modified pursuant to the provisions of this Charter. All right, title, and interest in property, real or personal, uncollected taxes due, Claims, judicial decrees, liens, suits, actions, and choses in action held or owned by the existing municipality shall pass and the same are hereby vested in the municipality continued under this revised charter.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 7.05. - OBLIGATION OF CONTRACTS PRESERVED.

No debt or obligation of contract of the City shall be changed as a result of the adoption of this Charter. All such debts and obligations shall pass to and be binding upon the municipality hereby continued.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

Section 7.06. - DELETION OF OBSOLETE SCHEDULE ITEMS.

The Commission shall have power, by resolution, to delete from this Article VII any Section, including this one, when all events to which the Section to be deleted is or could become applicable have occurred.

(Ord. No. 4-76, passed 2/23/76, Adopted at Referendum 2/2/76; Ord. No. 62-01, passed 1/8/02, Adopted at Referendum 3/12/02)

CHARTER COMPARATIVE TABLE ORDINANCES

This table shows the location of the sections of the basic Charter, amended in its entirety by Ordinance No. 62-01, and any subsequent amendments thereto. Ordinance No. 62-01 was adopted Jan. 8, 2002, and approved at referendum March 12, 2002.

| Ordinance Number | Date | Section | Section this Charter |
|------------------|----------|---------|----------------------|
| 63-01 | 1- 8-02 | 2 | 3.02, 3.03 |
| | | 4 | 3.08(B)(1)–(3) |
| 64-01 | 1- 8-02 | 2 | 3.09 |
| 35-12 | 10-16-12 | 1 | 3.04 |
| | | 2 | 3.05 |
| | | 3 | 3.08(B) |
| | | 4 | 4.02 |
| | | 5 | 4.05 |

| | | | |
|-----------------------|----------|------------|--------------|
| | | 6 | 5.04(B), (D) |
| | | 7 | 6.05(A) |
| 36-12 | 10-16-12 | 1 | 3.02 |
| | | 2 | 5.02 |
| 38-12 | 10-16-12 | 1 | 3.09(A) |
| 39-12 | 10-16-12 | 1 | 4.02(D) |
| 01-13 | 2- 5-13 | 1 | 3.12 |
| 32-13 | 12- 3-13 | 1 | 3.12 |
| 17-14 | 6-17-14 | 1 | 4.02(B) |
| 31-15 | 11-17-15 | 2 Added | 4.10, 4.11 |