

# **CHARTER FOR THE CITY OF PENSACOLA**

## **PREAMBLE**

We the people of the City of Pensacola, under the Constitution and laws of the State of Florida, in order to secure the benefits of local self-government and to provide for an honest, effective, and accountable Mayor-Council government, do hereby adopt this charter and confer upon the City the following powers, subject to the following restrictions, and prescribed by the following procedures and governmental structure. By this action, we secure the benefits of home rule and affirm the values of representative democracy, professional management, strong political leadership, citizen participation, and regional cooperation.

## **ARTICLE I**

### **GENERAL POWERS OF THE CITY**

#### **Section 1.01. General Powers and Corporate Existence.**

The City of Pensacola ("City"), located in Escambia County, Florida, 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 when expressly prohibited by law or this charter<sup>1</sup>.

#### **Section 1.02. Construction.**

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this Article.

#### **Section 1.03. Intergovernmental Relations.**

The City may participate by contract or otherwise with any governmental entity of the State of Florida or any other state or states or the United

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<sup>1</sup> See Apopka City Charter, p.1/7. Provides more clarity.

States of America in the performance of any activity which one or more of such entities has the authority to undertake.

1.04 Public Utilities – The City shall not renew or enter into a new franchise agreement, contract, lease, purchase agreement, or memorandum of understanding for provision of utility services without securing a study on the feasibility of municipalizing that utility as well as securing a full and independent audit of the prior agreement by a certified public accountant or firm of such accountants who have no direct or indirect interest in the fiscal affairs of the City or any of its officers or elected officials. For municipalized utilities, the City shall secure a study on the feasibility of privatizing that utility no less than once every 30 years. The City shall not dispose of any public utility without referendum.<sup>2</sup>

1.05 Contracts and Bidding – Any contract, lease, memorandum of understanding, or other agreement in excess of three years shall be awarded through fair and open competition using competitive bids, requests for proposals, requests for quotations and other practices which will result in the award of such agreements equitably and economically. Such agreements must be in writing and approved by the City Council. Any contract, lease, memorandum of understanding, or other agreement which is renewed on an annual basis shall be subject to the same open competition and Council approval after three renewals. The City shall not renew any contract, lease, memorandum of understanding, or other agreement with any party which fails to make available to the City a complete report on their finances for public review.<sup>3</sup>

1.06 Conflicts – No officer or employee, either individually, through a firm of which they are a member or have a financial interest, or through an immediate family member, shall receive any substantial benefit or potential

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<sup>2</sup> See Hialeah City Charter, p.2/23. Given that franchise agreements are up to 30 years, and in the case of Florida Power & Light valued at or more than \$240 million, one full audit and one feasibility study on municipalization every renewal is prudent and financially responsible to ensure the City negotiates its best deal and knows the viability of alternatives to renewing the franchise. Likewise, privatization of public utilities should be fully evaluated every thirty years at minimum to ensure the best deal for the City. “Ignorance is not a sound position from which to negotiate” – Tom Cloud.

<sup>3</sup> See Hialeah City Charter, p.2/23; West Palm Beach City Charter, p. 8/95; and Tampa City Charter, p. 9/13. It is in the City’s best interest to avoid even the appearance of impropriety when awarding contracts and executing agreements. Attempts to avoid the competitive process through annual and automatically renewing MOU’s should be more closely scrutinized. See “Procurement and Audit” in West Palm Beach Charter, p.8/95. See also St. Petersburg Charter, p.15/32 and Tampa Charter, p. 12/19.

profit out of any agreement entered into by the City. Additionally, no City Council Member may vote or take part in discussions before the Council should they, either individually, through a firm of which they are a member or have a financial interest, or through an immediate family member, potentially benefit or profit out of any agreement entered into by the City. Violation of this section by an elected official shall be grounds for removal. Violation of this section by any other officer or employee of the City shall be grounds for immediate discharge.<sup>4</sup>

1.07 Computation of Time – In computing any period of time prescribed or allowed by this charter, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or City observed holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or City observed holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and City observed holidays shall be excluded in the computation.<sup>5</sup>

## **ARTICLE II**

### **CORPORATE BOUNDARIES**

#### **Section 2.01. Corporate Boundaries.**

The corporate boundaries of the City of Pensacola shall remain fixed and established as they exist on the date this Charter takes effect, provided that the City shall have the power to change its boundaries in the manner prescribed by law.

## **ARTICLE III**

### **ELECTED CITY POSITIONS**

#### **Section 3.01. Form of Government.**

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<sup>4</sup> See Tampa City Charter, p. 14/19. Again, even the appearance of impropriety by any elected official or City employee must be given enhanced scrutiny. Provision of benefits through firms or family members should see the Sunshine and be prohibited. May be best to add this under 9.01 below.

<sup>5</sup> See Florida Rules of Civil Procedure 1.090 (a) Computation. Consistent with Florida Rules of Judicial Administration 2.514(a)(1)(B) and (a)(3). See Bonita Springs Code Chapter 1, Sec. 1-2.

~~With the exception of the initial transition period pursuant to Section 10.07 below, t~~<sup>6</sup>~~he City shall have a Mayor-Council form of government. There shall be a City Council, which shall be the governing body of the City with all legislative powers of the City vested therein, consisting of seven (7) Council Members, one (1) to be elected from each of the seven (7) election districts of the City. There shall also be a Mayor who is elected at large and who shall not be a member of the City Council.~~

### **Section 3.02. Election and Terms.**

The nonpartisan primary and general election of the Council Members and the Mayor shall be held in the manner provided in Article VI of this Charter and the terms of office for Mayor and Council Members shall be four (4) years and will commence on the fourth Tuesday in November after his or her election at 12 o'clock noon.

The base year for elections for Council Members for districts 2, 4, and 6, and the Mayor shall be 2010, and shall be for a four-year term. The base year for elections for Council Members for districts 1, 3, 5, and 7 shall be 2012 and shall be for a four-year term. These base year dates are established only for the purpose of scheduling elections and staggering terms, and do not impact the term limit requirements of Section 3.03. ~~Council Members for districts 1, 3, 5, and 7 elected in 2010 shall serve a two-year term. Terms served by the Mayor or a Council Member immediately preceding the base year dates shall not be counted in applying Section 3.03.~~<sup>7</sup>

### **Section 3.03. Limitations of Terms for Mayor and Council Members; Effective Date.**

**(a) Mayor.** No person shall be elected to serve as Mayor for more than ~~three~~ **two** consecutive terms. ~~on and after the general election in November 2010.~~<sup>8</sup>

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<sup>6</sup> Unnecessary language going forward

<sup>7</sup> Unnecessary language going forward

<sup>8</sup> The current mayor has mentioned this as an idea in the Pensacola News Journal and in CRC public meeting. Limiting the mayor allows for Council to potentially serve under two different administrations which could help prevent political gridlock.

**(b) City Council Members.** No person shall be elected to serve as a Council Member for ~~districts 1, 3, 5, and 7~~ for more than three consecutive<sup>9</sup> terms ~~on and after the general election in November 2012. No person shall be elected to serve as a Council Member for districts 2, 4, and 6 for more than three consecutive terms on and after the general election in November 2010.~~

## ARTICLE IV

### MAYOR AND CITY COUNCIL

**Section 4.01. Mayor.** (Wells letter, p.6 – need to make mayor member of city council for purposes of Sunshine. See also Woolf Memo, p.1)<sup>10</sup>

**(a) Powers and Duties.** The Mayor shall be the Chief Executive Officer of the City and shall be responsible for the administration of all City affairs placed in their charge pursuant to this Charter.<sup>11</sup> The Mayor, who shall serve in a full-time capacity, and shall exemplify good citizenship and exhibit a cooperative spirit, shall have the following powers and duties:

- (1) To exercise the executive powers of the City and supervise all departments, including, but not limited to, the power to appoint, discipline, and remove all officers and employees, unless otherwise provided in this Charter.
- (2) To enforce the charter and ordinances of the City and all applicable County, State, or federal general laws, special laws or ordinances.
- (3) To present recommendations to the City Council on the requirements of its municipal government.
- (4) To appoint a City Administrator, who shall serve at the pleasure of the Mayor; , and who shall have the power to appoint and

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<sup>9</sup> Clarification that they cannot simply take a break after 3 terms and then run again. Better serves the purpose of term limits. See *Vladimir Putin*.

<sup>10</sup> This deserves serious consideration and discussion. Language should be drafted carefully to prevent possible complete stall of government functioning. Specifically clarifying contact between council members and officers/employees of the City who report to the Mayor as passing along conversations could be seen as skirting Sunshine law.

<sup>11</sup> See Apopka City Charter, p.3/7; and letter from attorney Susan Woolf dated 7/29/21. This adds clarity on the role of the Mayor. The Charters of West Palm Beach (p. 5-6/95) and Tampa (p. 6/19) give very detailed and specific powers and duties of the mayor should CRC wish to further clarify Executive Power.

remove all officers and employees not otherwise provided for in this Charter.<sup>12</sup>

- (5) To appoint a City Attorney, with the consent of the City Council by an affirmative vote of a majority of City Council Members, and who may be removed by the Mayor with the consent of the City Council by an affirmative vote of a majority of the City Council Members.
- (6) To appoint the City Clerk, with the consent of the City Council by an affirmative vote of a majority of the City Council Members, and who may be removed by the Mayor with the consent of the City Council by an affirmative vote of a majority of the City Council Members.
- (7) To appoint the head of each department, with the consent of the City Council by an affirmative vote of a majority of City Council Members.
- (8) To suspend, discipline, or remove a department head with or without cause, and ~~without the consent of City Council Members, unless otherwise provided for in this Charter.~~ with the consent of the City Council by an affirmative vote of a majority of City Council Members.<sup>13</sup> ... or ... (To suspend, discipline, or remove a department head with or without cause. ~~and without the consent of City Council Members, unless otherwise provided for in this Charter.~~ Said department head may appeal any such action to the City Council who may overturn the action by an affirmative vote of a majority plus one (1) of the City Council Members.)
- (9) To prepare and submit the annual budget and capital program to the City Council.
- (10) To exercise a veto power over ordinances and resolutions adopted by City Council within five (5) days of adoption by City Council, except the Mayor may not exercise veto power over (i) an emergency ordinance as defined in Florida Statutes; (ii) those ordinances adopted as a result of quasi-judicial proceedings when such proceedings are mandated by law; and

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<sup>12</sup> See Don Kraher memo and the Charters of West Palm Beach (p. 5-6/95) and Tampa (p. 6/19). Allows for the free flow of ideas and opinions from City employees without fear of reprisal.

<sup>13</sup> See Don Kraher memo and the Charters of West Palm Beach (p. 5-6/95) and Tampa (p. 6/19). Allows for the free flow of ideas and opinions from City employees without fear of reprisal. May wish to qualify language so that someone being fired for cause can accept the dismissal without publicly airing the reasoning at a City Council meeting.

(iii) ordinances proposing Charter amendments, which the Council is required by law or by this Charter to place on the ballot. The Mayor may veto any "line item" in a budget or appropriation ordinance or resolution within five (5) days of adoption by City Council. A veto may be overridden only by an affirmative vote of a majority plus one (1) of the Council Members.

- (11) To attend all meetings of the City Council with authority to participate in discussions, but without power to vote.
- (12) To submit to the City Council and make available to the public a complete report of the finances and administrative activities of the City at the end of each fiscal year.
- (13) To keep the City Council fully advised as to the financial condition and future needs of the City.
- (14) To devote his or her entire work time to the performance of the duties of the Mayor's office, and hold no other elected public office **or perform other substantial gainful employment activities<sup>14</sup>** while Mayor.
- (15) To determine, consistent with this Charter, the organization of the City government and the power and duties assigned to the various departments.
- (16) **To negotiate and contract for the procurement of supplies, services, and construction by the City through fair and open competition using competitive bids, requests for proposals, requests for quotations and other practices which will result in the award of contracts equitably, economically, and in the best interest of the City.<sup>15</sup>**
- (17) **To cooperate with, enforce cooperation with, and in no way obstruct an inquiry into the conduct or dealings of any municipal office, department, agency or officer as permitted under 4.02(a)(3). Violation of this section by an elected official shall be grounds for removal. Violation of this section by any other officer or employee of the City shall be grounds for immediate discharge.<sup>16</sup>**

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<sup>14</sup> The position of mayor is intended to be a full time job. Potential financial and time management conflicts should be avoided so that the mayor's full attention can be on the City.

<sup>15</sup> See West Palm Beach Charter, p. 8/95. Once again, even the appearance of impropriety must be avoided in the award of contracts (and their financial benefits).

<sup>16</sup> Under no circumstances should the mayor or city staff or employees obstruct the Council's right to investigate the dealings of the City.



**(b) Vacancy.**

(1) Vacancy caused by death, resignation, refusal of the Mayor to serve, removal, or for any other reason, shall be filled by the President of City Council as Acting Mayor, who shall serve until a successor is appointed and sworn in. City Council shall fill the vacancy by a majority vote, and such vacancy shall be filled within thirty (30) **business**<sup>17</sup> days after the vacancy occurs. The appointed Mayor shall serve the unexpired term of the previous Mayor unless the unexpired term of the previous Mayor is twenty-eight (28) months or longer. If the unexpired term is twenty-eight (28) months or longer, a person shall be elected at the next general election to fill the unexpired portion of such term.

(2) The Mayor appointed by the Council must meet the qualifications for office as set forth in 6.03 of this Charter at the time of appointment.

**(c) Compensation.** The salary compensation of the Mayor shall be set by ordinance **following the most recent formula adopted by the Florida Office economic and Development Research – Salaries of Elected County Constitutional Officers and School District Officials. , which** Such **compensation**<sup>18</sup> shall take effect upon the Mayor assuming office following the next Mayoral election.

**Section 4.02. City Council.**

**(a) Powers and Duties.** City Council Members shall exemplify good citizenship and exhibit a cooperative spirit. **All powers of the City shall be vested in the City Council, except as otherwise provided by law or this Charter, including but not limited to**<sup>19</sup> ~~The City Council shall have the~~ following powers and duties:

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<sup>17</sup> See Don Kraher memo and letter from attorney Susan Woolf dated 7/29/21. Limiting this to business days would not be consistent with the FRCP 1.090(a) or Florida Rules of Judicial Administration 2.514(a)(1)(B) and (a)(3), specifically that you count every day if more than 7 days and only count business days (by excluding weekends and holidays) if less than 7 days. If a lack of time is a concern I would recommend changing to “45” days rather than limiting to “business” days.

<sup>18</sup> This provides for a consistent formula used State -wide to set the pay of the mayor without the need to make such raises political.

<sup>19</sup> See Apopka City Charter, p. 3/7. This will assist with resolving questions or conflict between the executive and legislative branches.



- (1) To legislate for the City by adopting ordinances and resolutions in the best interest of all citizens of the City.
- (2) To adopt the annual budget and all other appropriations necessary for efficient City government. Any modification of specific appropriations in the budget by greater than \$25,000.00, including but not limited to reallocating greater than \$25,000.00 between departments, shall require consent of the City Council by an affirmative vote of a majority of City Council Members.<sup>20</sup>
- (3) To inquire into the conduct or dealings<sup>21</sup> of any municipal office, department, agency or officer and to investigate municipal affairs including the negotiation of contracts, leases, memoranda of understanding, or other agreements<sup>22</sup>, and for that purpose, may subpoena witnesses, administer oaths and compel the production of books, papers, or other evidence. City Council shall have the ability to retain experts including outside legal counsel, obtain written or testimonial legal opinions, order comprehensive financial audits, and order feasibility or other studies.<sup>23</sup>
- (4) To override the Mayor's veto of an ordinance or resolution by an affirmative vote of at least a majority plus one (1) of the Council Members.
- (5) To devote such time as is necessary to the performance of City Council duties, and hold no other elected public office or be an employee of the City while a City Council Member.
- (6) The City Council shall establish an Office of the City Council and shall have as its staff the following who shall be

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<sup>20</sup> This would still allow the mayor flexibility to effectively manage the finances of the City while simultaneously prohibiting un-approved and more importantly un-vetted uses for budget items.

<sup>21</sup> Investigation of "conduct" alone could be too limiting when investigating

<sup>22</sup> City Council should have the right to investigate and advise the mayor before the contracts or other agreements are completed. This language is necessary due to 4.04(b) of this Charter. The Council should have the right to investigate to insure maximum transparency and confirm the best interest of the city is considered.

<sup>23</sup> Recent public statements by City Council members have brought into question their ability to obtain studies and retain experts to assist them in understanding the City's options and best interests. The Charter should make clear that the City Council can perform investigations necessary to protect the City.

responsible to the City Council through the President of the Council:

(a) Budget Analyst. The City Council is authorized to employ a Budget Analyst or an individual with similar qualifications, pursuant to the City's position classification code, to assist the budgetary matters of the City Council. The City Council, by ordinance, shall define the qualifications, pay and responsibilities of said employee in accordance with the City's position classification code. The employee shall be subject to termination by a majority vote of the City Council;

(b) Legal Aide. The City Council may appoint one assistant city attorney, whose salary shall be in accordance with those established for other assistant city attorneys. Said assistant city attorney shall (1) serve only in an advisory capacity to the City Council, and shall perform only such duties of a technical nature, including drafting of ordinances, legal research and providing advisory opinions, as requested by the City Council through its President, (2) perform such other duties required of ~~him~~ **them**<sup>24</sup> by the city attorney with the concurrence of the President of the City Council, (3) be subject to termination by a majority vote of the City Council; and (4) be responsible to the City Council through the President of the Council. Said assistant city attorney shall not file suit or bring or defend any action in court on behalf of the City Council, Mayor, the several departments, officers, and boards of the City government except with written authorization of the City Attorney. No action or opinion of said assistant city attorney shall be construed to be the official legal position of the City, and such official legal positions and actions shall be solely within the scope and powers and duties of the City Attorney;

(c) Council Executive. The City Council is authorized to hire a Council Executive. The City Council shall define the qualifications, pay and responsibilities of said employee in accordance with the City's position classification code. The employee shall be subject to termination by a majority vote of the City Council;

(d) Executive Assistant. The City Council is authorized to hire an Executive Assistant. The City Council shall define the

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<sup>24</sup> Won't necessarily always be a "him".

qualifications, pay and responsibilities of said employee in accordance with the City's position classification code. The employee shall be subject to termination by a majority vote of the City Council; and  
(e) Other Staff. The City Council may create and fill other staff positions for the purpose of assisting it in the performance of its legislative function. **Such positions shall be subject to termination by a majority vote of the City Council.**<sup>25</sup>

**(b) Vacancies.**

(1) If a vacancy on the Council is caused by death, resignation, refusal of any Council Member to serve, removal of any Council Member, the moving of a Council Member from the district from which the Council Member is elected, or for any other reason, the vacancy shall be filled for the unexpired term of the vacated seat by a majority vote of the remaining Council Members, and such vacancies shall be filled within thirty (30) **business**<sup>26</sup> days after the vacancy occurs. The appointed Council Member shall serve the unexpired term of the previous Council Member unless the unexpired term of the previous Council Member is twenty-eight (28) months or longer. If the unexpired term is twenty-eight (28) months or longer, a person shall be elected at the next general election to fill the unexpired portion of such term.

(2) The Council Member appointed by the Council must meet the qualifications for office as set forth in 6.03 of this Charter at the time of appointment. **The Council Member appointed by the Council may seek election to the Council position at the next election.**<sup>27</sup>

**(c) Compensation.** The salary compensation of the Council Members shall be set by ordinance **following the most recent formula adopted by the Florida Office economic and Development Research – Salaries of Elected County Constitutional Officers and School District Officials.** ~~which~~ **Such**

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<sup>25</sup> It's the City Council's staff. Council should control their hiring and firing.

<sup>26</sup> See Footnote 17, above.

<sup>27</sup> This conflict has already arisen once and will likely again. City Council was hesitant to appoint someone who would not pledge to abstain from running for that seat in the next election. Council appeared to fear it would look like an endorsement. CRC should remove that uncertainty for them.

compensation<sup>28</sup> shall take effect upon the Council Member assuming office following the next Mayoral election.

### **Section 4.03. City Council Procedures.**

**(a) Meetings.** The City Council shall meet ~~regularly~~ at least once every month at such times and places as the City Council may prescribe. Special meetings may be held on the call of the City Council president or the Mayor or at the request of three (3) of the City Council Members to the City Clerk and, whenever practicable, upon no less than twelve (12) hours notice to each Council Member and the public, or such shorter time as the City Council president, Mayor, or three (3) City Council Members deems necessary in the event of an emergency.

**(b) Rules and Minutes.** The City Council shall determine its own rules of procedure and order of business, and shall keep minutes of its proceedings that shall be open for public inspection. The City Council shall establish procedures for making copies of all resolutions, ordinances, and this Charter available to the public for inspection and for purchase at a reasonable price, in conjunction with the requirements of Florida law.

**(c) Voting and Quorum.** Voting on ordinances and resolutions shall be by electronic tally devices, or by such other means as may be adopted by the City Council. The City Clerk Reports of Council Action shall be written and permanently recorded. A majority of the existing membership of City Council shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the City Council. No action of City Council except as otherwise provided in the preceding sentence shall be valid or binding unless adopted by the affirmative vote of the majority of the existing membership of City Council, except that if a majority or more Council Members are ineligible to vote on a particular item because State law requires the Council Members to

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<sup>28</sup> This provides for a consistent formula used State-wide to set the pay of the Council without the need to make such raises political. See Model City Charter Section 2.04. The Model Charter rejects setting actual compensation, but notes the City should provide extra compensation for the Mayor due to additional duties. OEDR accounts for this fact. The City Council is a part-time position but requires near full-time devotion to perform the job well. The City should seek to attract the best candidates possible to these positions and unreasonably low pay cannot consistently achieve that goal. The current pay rate favors the affluent, the retired, and those with uncommonly understanding employers. The current pay rate prevents those less affluent or who work hourly/shift-type work from seeking office and deprives the City of their unique perspective.

abstain from voting, then the remaining Council Members may vote and approve the item by unanimous vote.

**(d) *Veto Override.*** The City Council may, by an affirmative vote of at least a majority plus one (1) of the City Council Members, override the Mayor's veto of an ordinance or resolution at any time prior to midnight on the fifth (5th) business day after the day the Mayor exercises the veto or prior to midnight on the day of the next City Council meeting after the exercise of the Mayoral veto, whichever last occurs. If City Council overrides a veto, the ordinance or resolution shall be effective immediately or as otherwise provided therein. If City Council fails to override a veto, the ordinance or resolution shall fail and be of no effect. Ordinances adopted by City Council shall be effective unless vetoed by the Mayor upon the expiration of the fifth business day after said adoption, or shall be effective upon such later date as may be provided therein. The Mayor may notify the City Council through written notice filed with the City Clerk that he or she will not veto the ordinance or resolution, whereupon the ordinance or resolution may become effective prior to the sixth business day after adoption of said ordinance or resolution if the ordinance or resolution so provides for such an earlier effective date.

**(e) *President, Vice President of City Council.*** The City Council shall elect one of its Members as president and another as vice president on the fourth Tuesday in November of each year. The City Council may remove the City Council president or vice president by an affirmative vote of at least a majority of the City Council Members. In the event of vacancy in the office of president or vice president, the City Council shall elect one of its Members to fill the remaining term of the vacant position. The president shall preside at the meetings of the City Council and in his or her absence, the vice president shall preside. The president shall perform the duties consistent with the office and as otherwise imposed by the City Council.

#### **Section 4.04. Prohibitions.**

**(a) *Appointment and Removal.*** No individual City Council Member shall in any manner dictate the appointment or removal of any administrative officer or employee whom the Mayor is empowered to appoint, except as provided elsewhere in this Charter. The City Council may, however, express its views and fully and freely discuss any and all matters with the Mayor pertaining to the appointment and removal of City officers and employees.

**(b) *Interference with Administration.*** Except for the purpose of inquiries and investigations made in good faith, the City Council or Council Members shall deal with the City officers and employees, who are subject to the direction and supervision of the Mayor, solely through the Mayor. Neither the City Council nor Council Members shall give orders to any such officer or employee, either publicly or privately. It is the express intent of this Charter that ~~recommendations~~ **orders** for improvement of municipal governmental operations ~~by individual Council Members~~ be made solely to and through **by** the Mayor.<sup>29</sup> **To ensure Government-in-the-Sunshine, any communications between the Mayor and any City Council member shall be subject to Sunshine Law per Chapter 286 Florida Statutes.**<sup>30</sup>

**(c) *Holding other Office.*** No elected City official shall hold any appointive City office, City board membership, or City employment while in office, except as may be provided by State law. No former elected City official shall hold any compensated appointive City office until ~~one~~ **two** years<sup>31</sup> after having last served as an elected official.

## ARTICLE V

### APPOINTED CITY POSITIONS

#### Section 5.01. City Clerk.

There shall be a City Clerk who shall be appointed by the Mayor with the consent of the City Council by an affirmative vote of a majority of Council Members, and whose duties and responsibilities are as provided for by this Charter. Although an appointee of the Mayor, the Clerk shall serve the entire City government. The Clerk shall keep and have the care and custody of the books, records, papers, legal documents and journals of proceedings of the City Council and shall carry out such additional duties as may be required by the Council or the Mayor. The City Clerk **and their**

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<sup>29</sup> It seems overly broad and extreme to prohibit the City Council from making recommendations to staff about changes or ideas they would like to see. With that said, only the Mayor can order those changes to occur. Anything required by Council should go through the regular legislative process.

<sup>30</sup> See Attorney Wells 8/7/09 letter, p.6; and Kraher memo concern over interference. Also consider that in 4.01(b)(1) of this Charter where the president of city council becomes mayor in a vacancy. In that case, Sunshine would presumably apply unlike with permanent mayor. In the alternative it could create a situation where Council could not communicate with City staff over fears of skirting Sunshine.

<sup>31</sup> This again goes to the "appearance of impropriety". Two years allows for an election cycle and should help to prevent the appearance of favoritism.

**staff**<sup>32</sup> may be removed from office with the concurrence of the Mayor and a majority of the City Council.

### **Section 5.02. City Administrator.**

There shall be a City Administrator who shall be appointed by the Mayor, and who shall serve at the pleasure of the Mayor. The City Administrator shall be in charge of the daily operations of the City. Prior to appointment by the Mayor, the City Administrator shall have had relevant management, executive, or administrative experience.

### **Section 5.03. City Attorney.**

The City Attorney shall serve as the chief legal adviser to, and shall represent, elected or appointed officials, boards and commissions, and employees in the course and scope of their official duties or employment, respectively. The City Attorney shall represent the City in legal proceedings and shall perform any other duties prescribed by State law, by this Charter, or by ordinance or resolution. The Mayor shall appoint the City Attorney, with the consent of the City Council by an affirmative vote of a majority of City Council Members. The City Attorney **and their staff**<sup>33</sup> may be removed from office with the concurrence of the Mayor and a majority of the City Council.

### **Section 5.04. Departments.**

The Mayor shall determine, consistent with this Charter, the organization of the City government and prescribe the duties and responsibilities assigned to the various departments.

### **Section 5.05. City Boards, Commissions and Authorities.**

**(a) Establishment.** Unless otherwise provided by law, City Council shall establish or terminate by ordinance, such boards, commissions and authorities as it may deem advisable from time to time.

**(b) Membership and Removal.** Unless otherwise provided by law, City Council shall determine procedures, membership and removal from City boards, commissions and authorities. **Board, commission, and authority membership must be distributed equally among City Council Districts with no disproportionate duplication of members by District. Any member who**

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<sup>32</sup> See Kraher memo. Since the Clerk's staff works for both mayor and city council they should have the same protections as the clerk to allow for the free flow of ideas and opinions without fear of reprisal.

<sup>33</sup> See Kraher memo. Since the city attorney's staff works for both mayor and city council they should have the same protections as the clerk to allow for the free flow of ideas and opinions without fear of reprisal.



misses three meetings in a twelve month period shall be removed from the Board but may be re-appointed pursuant to the standard procedures adopted for appointment.<sup>34</sup>

## ARTICLE VI

### ELECTIONS

#### **Section 6.01. Nonpartisan Elections.**

All nominations and elections for the offices of Mayor and City Council Member shall be conducted on a nonpartisan basis.

#### **Section 6.02. Electors.**

Any person who is a resident<sup>35</sup> of the City, is a qualified Florida elector, and who has been assigned a voter registration number by the County Supervisor of Elections to vote in a City precinct shall be an elector of the City.

#### **Section 6.03. Qualifications, Eligibility, and Filing Fee.**

**(a) *Qualifications and Eligibility.*** Any person who is a resident of the City, has qualified as a Florida elector, and has been assigned a voter registration number by the County Supervisor of Elections to vote in a City precinct not less than one (1) year prior to the end of the qualification period, shall be an elector of the City who shall be eligible to run for the office of Mayor, while a candidate for a City Council district office must have been a resident of the declared district for at least one (1) year prior to the end of the qualification period. If he or she ceases to possess any such qualifications during his or her term of office, or if he or she violates any express prohibition of this Charter, he or she shall forthwith forfeit the office, and the Council shall remove him or her from office.

**(b) *Filing Fee.*** Each candidate shall pay to the qualifying officer a filing fee in the amount of three percent (3%) of the annual salary of the office of Mayor or office of Member of City Council, as well as an election assessment as provided by Florida law.

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<sup>34</sup> If a board, commission, or authority has seven members or less, no two members shall reside in the same City Council District. If a board, commission, or authority has eight to fourteen members, no three members shall reside in the same City Council District. Board membership should encourage diversity of thought and experience, and strive to achieve that. Additionally, Board members should be active and involved with their board. Removal would not preclude them continuing to serve provided the Council accepts their new application.

<sup>35</sup> Ms. Woolf questioned whether this was sufficient, but the Supervisor of Elections certifying it seems sufficient.

**(c) *Determination of Qualifications and Eligibility.*** The City Clerk shall be the judge of qualifications for candidates for the positions of Mayor and City Council.

#### **Section 6.04. Elections Procedures.**

**(a) *General and Primary Elections.*** City Council shall make all necessary arrangements for holding the regular City elections and shall declare the results thereof. The general election for contests with three (3) or more candidates shall be held on the date of the primary election established by general law for election of State and County officers. The runoff election for the two (2) candidates receiving the greatest number of votes at the primary election, where none received a majority, shall be held on the date of the general election established by general law for election of State and County officers. The general election for contests when there are only two (2) candidates shall be held on the date of the general election established by general law for election of State and County officers.

**(b) *Appointments by Supervisor of Elections.*** The Supervisor of Elections determines appointment of inspectors, clerks and deputies of the elections.

**(c) *Notice of Elections.*** The City Clerk shall cause a notice of the time and place of holding all City elections to be published in a newspaper published in the City, for at least once a week for two (2) consecutive weeks during the thirty (30) days prior to the beginning of qualifying.

**(d) *One Candidate.*** No election for Mayor or for any City Council office shall be required in any election in which there is only one (1) duly qualified candidate for the particular office.

**(e) *Canvassing Board.*** Elections shall be conducted and results shall be tabulated, returned and canvassed by County election officials in accordance with general law. The canvassing board shall submit certified election results to the City Clerk. In a City election where a County canvassing board would not be empanelled, then the canvassing board shall include the Mayor, if not on the ballot, and those City Council Members who are not on the ballot.

**(f) *Ballots.*** In the election, the names of all candidates qualified for nomination to the office of Mayor or the office of Member of the City Council for each seat shall be placed on the ballot in their respective seats in alphabetical order, and the candidate who receives a majority of the votes in the election for a respective seat shall be declared elected.

#### **Section 6.05. Candidate Qualifying Oath.**

**(a) *Qualifying Oath or Affirmation.*** Any person who is qualified under the laws of the State and this Charter may become a candidate for the office of Mayor or City Council by taking and subscribing to an oath or affirmation, and filing the same with the City Clerk during business hours during the period prescribed by general law for qualification of candidates for election to County offices.

**(b) *Form.*** The form of the oath or affirmation shall be as provided by Florida law.

#### **Section 6.06. Alternative to Qualifying Fee.**

**(a) *Petition Process.*** In lieu of paying the filing fee prescribed by this Charter, a candidate for the office of Mayor or office of City Council Member may have his or her name placed on the ballot for the election by complying with the petition process for qualifying as a candidate for County office as prescribed by general law. No person may qualify for election as a write-in candidate.

**(b) *Petition Forms.*** The qualifying officer shall provide the candidate with the petition format to facilitate the gathering of signatures pursuant to this section.

**(c) *Valid Signatures.*** The candidate may begin to seek signatures on a petition supporting his or her candidacy once the requirements of general law are met. Only signatures of City electors shall be counted toward obtaining the minimum number of signatures prescribed in this subsection. Candidates for the office of Mayor under this petition process shall obtain the signatures of a number of qualified electors equal to at least five percent (5%) of the total number of registered electors in the City, as shown by the compilation by the Supervisor of Elections for the most recent general election of the City Council. A candidate for a single member district position shall obtain the signatures of a number of qualified electors residing in the district for which the candidate seeks election equal to at least five percent (5%) of the total number of registered electors in the district, as shown by the same compilation. For the City election next following each decennial census, the required petition signatures shall be as follows:

(i) Candidates for the office of Mayor under this petition process shall obtain the signatures of a number of registered voters of the City equal to at least two and one-half percent (2.5%) of the population of the City according to the most recent decennial census.

(ii) A candidate for the office of a district City Council Member under this petition process shall obtain the signatures of a number of registered voters

residing in the district for which the candidate seeks election equal to at least two and one-half percent (2.5%) of the ideal district population according to the most recent decennial census. For the purposes of this section, the “ideal district population” means the total population of the City based upon the most recent decennial census divided by the number of City Council districts.

**(d) *Verifying Names.*** Each petition shall be submitted to the qualifying officer prior to the deadline established by general law. The Supervisor of Elections shall verify the petitions according to general law. Prior to the first date for qualifying, the Supervisor of Elections shall certify the number of persons shown as registered electors of the City, and of each district, for the most recent general election of the City, and submit the certification to the City Council. The candidate shall, during the time prescribed for qualifying for office, submit a copy of the certification that the candidate met the qualifying requirements, issued by the qualifying officer, and file his or her qualifying papers. Upon receipt of the notice and qualifying papers, the qualifying officer shall certify the name of the candidate to the City Council as having qualified for the office sought.

#### **Section 6.07. Commencement of Term of Office.**

The term of office of any elected official (Mayor or City Council Member) will commence on the fourth Tuesday in November after his or her election at 12 o'clock noon, at which time the newly elected official shall take an oath of office and be installed in office. The commencement date for all offices in the City election shall be the same date whether the candidate is elected during the primary or general election. In the event of a Special Election or other election other than the primary or general election, the term of office of any elected official will commence on the third day after his or her election has been certified, at 12 o'clock noon, at which time the newly elected official shall be given an oath of office and installed in office, or as provided by State law, unless the commencement date falls on a legal or City holiday in which case the term of office will commence on the next day that is not a legal or City holiday.

#### **Section 6.08. Council Districts.**

**(a) *Number of Districts.*** There shall be seven (7) City Council districts.

**(b) *Districting Commission; Composition; Appointment; Terms; Vacancies; Compensation.***

- (1) There shall be a districting commission consisting of seven (7) members. The City Council shall appoint one (1) member from each of the seven (7) Council districts of the City.
- (2) No member of the commission shall be employed by the City or hold any other elected or appointed position in the City.
- (3) The City Council shall appoint the commission no later than one year and five months before the first general election of the City Council after each federal decennial census. The commission's term shall end upon adoption of a districting plan, as set forth in section 6.08(c).
- (4) In the event of a vacancy on the commission by death, resignation or otherwise, the City Council shall appoint a new member from the same district from which his or her predecessor was selected to serve the balance of the term remaining.
- (5) No member of the districting commission shall be removed from office by the City Council except for cause and upon notice and hearing.
- (6) The members of the commission shall serve without compensation.
- (7) The commission may hire or contract for necessary staff assistance and may require agencies of City government to provide technical assistance. The commission shall have a budget as provided by the City Council.

***(c) Powers and Duties of the Commission; Hearings, Submissions and Approval of Plan.***

- (1) Following each decennial census, the commission shall consult the City Council and the Supervisor of Elections, and shall prepare a plan for dividing the City into districts for the election of Council Members. In preparing the plan, the commission shall be guided by the criteria set forth in section 6.08(d). The report on the plan shall include a map and description of districts recommended.
- (2) The commission shall hold one or more public hearings not less than one month before it submits the plan to the City Council. The commission shall make its plan available to the public for inspection and comment not less than one month before its public hearing.

- (3) The commission shall submit its plan to the City Council not less than one year before the first general election of the City Council after each decennial census.
- (4) The plan shall be deemed adopted by the City Council unless disapproved within three weeks by the vote of the majority of all Members of the City Council. If the City Council fails to adopt the plan, it shall return the plan to the commission with its objections and with the objections of individual Members of the Council.
- (5) Upon rejection of its plan, the commission shall prepare a revised plan and shall submit such revised plan to the City Council no later than nine months before the first general election of the City Council after the decennial census. Such revised plan shall be deemed adopted by the City Council unless disapproved within two weeks by the vote of two-thirds of all the Members of the City Council and unless, by a vote of two-thirds of all of its Members, the City Council votes to file a petition in the circuit court in and for Escambia County, for determination that the plan fails to meet the requirements of this Charter. The City Council shall file its petition no later than ten days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of this Charter, the plan shall be deemed adopted by the City Council and the commission shall deliver the plan to the City Clerk. The plan delivered to the City Clerk shall include a map and description of the districts.
- (6) If in any year population figures are not available at least one year and five months before the first general election following the decennial census, the City Council may, by local law, shorten the time periods provided for districting commission action in paragraphs (2), (3), (4), and (5) of this subsection.

**(d) *Districting Plan; Criteria.*** In preparation of its plan for dividing the City into districts for the election of Council Members, the commission shall apply the following criteria which, to the extent practicable, shall be applied and given priority in the order in which they are herein set forth.

- (1) Districts shall be equal in population except where deviations from equality result from the application of the provisions hereinafter set forth, but no such deviation may exceed five percent (5%) of the average population for all City Council

districts according to the figures available from the most recent census.

- (2) Districts shall consist of contiguous territory; but land areas separated by waterways shall not be included in the same district unless said waterways are traversed by highway bridges, tunnels or regularly scheduled ferry services both termini of which are within the district, except that, population permitting, islands not connected to the mainland or to other islands by bridge, tunnel or regular ferry services shall be included in the same district as the nearest land area within the City.
- (3) Consistent with the foregoing provisions, the aggregate length of all district boundaries shall be as short as possible.
- (4) To the extent possible, consideration should be given to coordinating district lines for the various public offices, as well as precincts.
- (5) The districts shall be based upon the principle of equal and effective representation as required by the United States Constitution and general law.

**(e) *Effect of Enactment.*** The new City Council districts and boundaries as of the date of enactment shall supersede previous Council districts and boundaries for all purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Council Members elected at that regular City election take office.

## **ARTICLE VII**

### **RECALL, INITIATIVE, AND REFERENDUM**

#### **Section 7.01. Recall.**

The qualified electors of the City of Pensacola shall have the power of recall to remove the Mayor or a Member of the City Council in the same manner provided by general law in Florida Statute § 100.361, as that provision may from time to time be amended.

#### **Section 7.02. Power of Initiative.**



City electors shall have the power to propose ordinances to the City Council. If the City Council fails to adopt an ordinance so proposed without any change in substance, the electors have the power to adopt or reject the proposed ordinance at a City election. The electors are not empowered to propose ordinances that extend to providing an annual budget, levying taxes, or setting salaries of City officers or employees.

### **Section 7.03. Power of Referendum.**

Within sixty (60) days following the effective date of a measure passed by City Council, City electors shall have the power to require reconsideration by the City Council of any measure passed by City Council. If the City Council fails to repeal a measure so reconsidered, the electors have the power to approve or reject the reconsidered measure at a City election. The electors are not empowered to reconsider measures that extend to providing an annual budget, levying taxes, or setting salaries of City officers or employees.

### **Section 7.04. Commencement of Proceedings.**

Any ten (10) electors may commence initiative or referendum proceedings by filing with the City Clerk an affidavit stating that they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form. The affidavit shall further provide their names and addresses, specify the mailing address for notices to be sent to the committee, and fully set forth the proposed initiative or identify the measure sought to be reconsidered. Promptly after the petitioners' committee's affidavit is filed, the City Clerk, at the committee's request, shall issue the appropriate petition forms to the committee at the committee's expense.

### **Section 7.05. Initiative or Referendum Petitions.**

**(a) Number and Signatures.** Initiative and referendum petitions must be signed by City electors equal to at least ten percent (10%) of the total number of registered electors in the City, as shown by the compilation by the Supervisor of Elections for the most recent general election of the City Council.

**(b) Form and Content.** All petition papers shall be uniform in size and style and shall be printed on separate cards or individual sheets of paper. Adequate space must be provided for the voter's name, address, signature, and date of signature. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

**(c) *Statement of Circulator.*** When filed, petitions shall have attached a statement executed by the circulator or circulators of the petitions that he, she, or they personally circulated the petitions. The statement shall further state the number of signed petitions submitted and that the circulator believes them to be the genuine signatures of the persons whose names they purport to be.

**(d) *Filing Deadline.*** All initiative and referendum petitions must be filed with the City Clerk within sixty (60) days of the commencement date of the initiative or referendum proceedings. The City Clerk shall submit the petitions to the Supervisor of Elections within three (3) business days of receipt of the petitions.

#### **Section 7.06. Verification of Petitions.**

The petitioner's committee shall submit the completed petitions to the Escambia County Supervisor of Elections for verification as to the number of registered electors whose valid signatures appear thereon, along with any fee required by general law. The Supervisor of Elections shall make a good faith effort to verify the signatures within ten (10) days of receipt of the petitions. The Supervisor of Elections shall record the date each form is received by the Supervisor of Elections, and the date the signature on the form is verified as valid. The Supervisor of Elections may verify that the signature on a form is valid only if (i) the form contains the original signature of the elector; (ii) the elector has accurately recorded on the form the date on which he or she signed the form; (iii) the form accurately sets forth the elector's name and address; and (iv) the elector is, at the time he or she signs the form, a duly qualified and registered elector of the City.

#### **Section 7.07. Action on Petitions.**

**(a) *Action by City Council.*** When an initiative or referendum petition has been finally determined sufficient, the City Council shall promptly consider the proposed initiative or reconsider the referred ordinance or measure. If the City Council fails to adopt a proposed initiative ordinance without any change in substance within forty-five (45) days or fails to repeal the referred ordinance within forty-five (45) days, it shall submit the proposed or referred ordinance to the electors. If the City Council fails to act on a proposed initiative ordinance or referred ordinance or measure within the time prescribed in this subsection, the City Council shall be deemed to have failed to adopt the proposed initiative ordinance or have failed to repeal the referred ordinance or measure on the last day that the City Council was authorized to act on the matter.

**(b) *Submission to Electors.*** The vote on a proposed or referred ordinance or measure shall be held not less than thirty (30) days or more than sixty (60) days from the date the City Council acted or was deemed to have acted according to section 7.07(a). If there is not a general election to be held within the described time period, the City Council shall provide for a special election in consultation with the Escambia County Supervisor of Elections. Otherwise, the vote shall be held at the same time as such regular election. Copies of the proposed or referred ordinance or measure shall be made available at the polls. Nothing in this provision shall prohibit the use of a mail ballot election pursuant to general law.

**(c) *Withdrawal of Petitions.*** Initiative or referendum petitions may be withdrawn at any time prior to the twenty-fifth (25th) 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 eight (8) of the members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### **Section 7.08. Election Results.**

**(a) *Initiative.*** If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, the initiative ordinance shall be considered adopted upon the certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of a conflict.

**(b) *Referendum.*** If a majority of the qualified electors voting on a referred ordinance or measure vote for repeal, the referred ordinance or measure shall be considered repealed upon certification of the election results.

### **ARTICLE VIII**

#### **CHARTER REVIEW AND CHARTER AMENDMENTS**

##### **Section. 8.01. Charter Review Commission.**

**(a) *Charter Review Commission Established.*** During the month of ~~January 2022~~<sup>36</sup> and every ten (10) years thereafter, there shall be established a Charter Review Commission ("CRC"); provided, however,

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<sup>36</sup> This is not enough time to hold a legitimate Charter Review. Future CRCs should be given 18 months or more, not 5-6 months as this CRC was.

that the City Council shall have the power to establish a CRC more often in the event it so chooses.

**(b) Composition.** Every ten (10) years, the Mayor and City Council shall appoint nine members to the CRC. **The Mayor shall appoint two members and each Council Member shall appoint one member residing in their Council District.**<sup>37</sup> The CRC shall be composed of nine members, **with at least one (1) member from each of the seven (7) Council districts of the City and no more than 2 members from any one Council District.**<sup>38</sup> No members of the CRC shall be elected officials. Each member of the CRC shall be a City resident and elector. Vacancies shall be filled within 30 days in the same manner as the original appointments.

**(c) Procedures.** The CRC shall meet prior to the third week in January 2022<sup>39</sup>, and every ten (10) years thereafter, for the purposes of organization. The CRC shall elect a Chair and Vice Chair from among its membership. Further meetings of the CRC shall be held upon the call of the Chair or any three members of the CRC. All meetings shall be open to the public. A majority of the members of the CRC shall constitute a quorum.

**(d) Rules and Compensation.** The CRC may adopt other rules for its operations and proceedings as it deems desirable. The members of the CRC shall receive no compensation.

**(e) Expenses.** Expenses of the CRC shall be verified by a majority vote of the CRC and forwarded to the Mayor for payment from the general fund of the City. The City may accept funds, grants, gifts and services for the CRC from the State, the County, and the government of the United States or other sources, public and private.

**(f) Review.** The CRC shall review, on behalf of the citizens of the City of Pensacola, the City Charter in order to recommend amendments to this Charter, if any.

**(g) Report and Process.** The CRC shall complete its review and submit a report to the City Council by July 31, 2022, and every ten (10) years thereafter. Included within the report shall be any proposed amendments to the Charter, together with the wording of the proposed amendments. City Council shall make the final decision as to whether the proposed amendments are (i) returned to the CRC for further review, (ii) revised and included on a ballot, (iii) included on a ballot without change, or (iv) subject to other action. Any such amendments may be included on the ballot as a

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<sup>37</sup> Clarification on who gets to appoint the members should avoid future potential conflicts on the issue.

<sup>38</sup> As with other Boards, and consistent with Footnote 34 above, membership should encourage diversity of thought and experience, and strive to achieve that.

<sup>39</sup> See Footnote 34 and 38

single question, individual questions or any combination of either. If one or more proposed Charter amendments are submitted by the CRC and the City Council so chooses, the City Council, in consultation with the Supervisor of Elections, shall place the amendments on the ballot of the general election to be held in 2022 and every ten (10) years thereafter, for the purpose of voting on the proposed amendments submitted by the CRC through City Council. Notice of said election shall be published by the City Council. Passage of proposed amendments shall require approval of a majority of electors voting in said election on such amendment.

### **Section 8.02. Charter Amendments.**

**(a) *Initiation by Ordinance.*** The City Council may propose amendments by ordinance to this Charter. Upon adoption of the initiating ordinance, the City Council shall submit the proposed amendment to a vote of the electors at the next general election held within the City or at a special election called for such purpose.

**(b) *Initiation by Petition.*** The electors of the City may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced in the same manner as an ordinance proposed by initiative in Article VII of this Charter. Initiative petitions must be signed by City electors equal to at least ten percent (10%) of the total number of registered electors in the City, as shown by the compilation by the Supervisor of Elections for the most recent general election of the City Council.

**(c) *Consistency.*** Except as additionally provided for herein, the method for Charter amendments shall be consistent with State law.

## **ARTICLE IX MISCELLANEOUS**

### **Section 9.01. Code of Ethics.**

The City Council shall, upon adoption of this Charter, enact by ordinance a Code of Ethics for all elected and appointed officers and employees of the City which shall set standards of conduct equal to or stronger than the standards of conduct established by law.

## **ARTICLE X SCHEDULE**

### **Section 10.1. Effective Date.**

Upon approval of a majority of the electorate voting at a referendum on the Charter, this Charter will become effective January 1, 2010. Upon approval of a majority of the electorate voting at a referendum on the proposed Charter amendment eliminating at-large Council seats, and certification of the results of the referendum, the at-large Council seats shall each become vacated and eliminated at the expiration of the current term of office of each of them.

#### **Section 10.02. Ordinances Preserved.**

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

#### **Section 10.03. Repeal of Former Charter Provisions.**

All provisions in effect prior to the effective date of this Charter, including, but not limited to the Charter provisions contained in Chapter 15425, Laws of Florida (1931), as amended (the former Charter), 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 provided that all extra territorial powers of the City conferred by special act or otherwise are preserved and can be repealed or modified only by referendum or as otherwise provided by law.

#### **Section 10.04. Precedence over Code Provisions.**

If a conflict exists between the provisions of this Charter and the Code of Ordinances, the Charter provisions shall control.

#### **Section 10.05. Officers and Employees.**

The adoption of this Charter shall not affect or impair the rights, privileges or immunities of City officers or employees at the time of the effective date of this Charter, including rights provided for pursuant to Chapter 447, Florida Statutes, and collective bargaining agreements. Elected officers shall continue to hold their offices for the terms prescribed by the Charter in effect on the date of their election, and they shall discharge their duties until their successors are elected.

#### **Section 10.06. Existing Rights, Obligations, Duties and Relationships.**

**(a) *Continuity.*** 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.

**(b) *Obligations.*** No debt, contract obligation, or assessment by the City shall be impaired by adoption of this Charter. All existing debts, obligations and assessments shall remain valid and enforceable, according to their terms, under the Charter provisions applicable at the time the debt was incurred, contract signed, or assessment imposed. All obligations and rights arising in connection with projects financed under former Charter provisions shall be unaffected and remain in full force and effect as if the borrowing, taxing, bonding or other financing provisions had survived the adoption of this Charter.

**(c) *Other Government Units.*** All existing rights, obligations, duties and relationships by law or agreement between the City and other governmental units shall be unaffected by the adoption of this Charter and remain in full force and effect.

**~~(d) *Commencement of Terms for Year 2010 Elections.*~~** ~~The terms for the Council Members and Mayor elected in the 2010 general election shall commence at noon on the second Monday of January 2011 as provided for in the former City Charter, or on such earlier date as the office becomes vacant after the 2010 general election. This provision shall be effective solely for the purposes of transition from the former City Charter to Section 3.02 of this Charter.~~

#### **Section 10.07. Transition.**

~~The City Council shall adopt such ordinances and resolutions as are required to effect the transition from a nine (9) member City Council with two (2) at large elected seats to a seven (7) member City Council with no at large elected seats upon the expiration of their current respective terms. Ordinances adopted within sixty (60) days of the first Council meeting under this Charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures prescribed by law.~~<sup>40</sup>

#### **Section 10.08. Severability.**

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, the court decision invalidating any section or part of section shall not affect the remainder of this Charter or the

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<sup>40</sup> Not sure if any of this is necessary after the transition.



context in which the invalidated section or part of section may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which the court decision may directly apply.