

Date: February 6, 2017

To: Charter Review Advisory Board Members  
Ms. Patsy Adkins, City Clerk  
Mark Moriarty, City Attorney

From: Commissioner Debbie McDowell

Subject: Charter changes

I want to thank you all for your efforts. The time your Board spent on this daunting task is to be commended. THANK YOU. If I could go back and change one thing about our Joint Meeting on the 31st, I wish we met with all of us sitting at the same table, as one team working to achieve a common goal. I look forward to a more informal setting on April 3rd.

So now to get down to the nitty gritty "my 10 pages of comments". I made notations on the actual red-line version, which I have attached for your review and consideration. READY ....

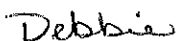
These following points are not included in the red-line version. However, in my opinion, they are areas that may need further discussion.

- The assistants to the City Manager and City Attorney should be charter officers too.
- Items relating to elections are placed all over the charter. Shouldn't elections be in one location in the charter?
- In 7.01 - Residency requirement pertains to the candidate only. What about after they're elected? Are they required to maintain residency in that district? It is not clear. This could lead to big problems in the future, let's be pro-active!
- Does changing the charter affect the Charter Officer's contracts that are already in place? Would we have to change their contracts to match the recommended changes in the Charter?
- On page 43 of the red-line there is mention of the Florida State Statute 768.28, could you please supply a copy of that statute (I couldn't find it)
- When a section is removed because it is covered in FL State Statutes does not make this document a "Citizen's Document". There is no harm in keeping the verbiage and referencing the FL State Statute in the text for additional information.
- During our meeting on the 31<sup>st</sup>, there was reference to make the Charter less than the 33 existing pages. WHY? Our ULDC is over 600 pages and our Administrative Code is well over 100 pages.

I would welcome the opportunity to have a dialog with you regarding these suggested changes and concerns. Please feel free to call or set an appointment for a meeting. I look forward to our Joint Meeting on April 3.

Again, thank you for your efforts in this process together, I'm confident we can get it done!

Sincerely,



Debbie McDowell, Commissioner  
City of North Port  
Office: 429-7071  
Cell: 628-0486

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WHERE IS THE INTRODUCTION?

SHOULD NOT BE DELETED  
MAYBE IT SHOULD BE AN APPENDIX

**ARTICLE I - CREATION, POWER & CONSTRUCTION**

**SECTION 1.01 – CREATION:**

~~The City of North Port, County of Sarasota, State of Florida, was created, as of June 18, 1959, pursuant to provisions of the Constitution of the State of Florida, the laws of the State of Florida and the Special Legislative Enactment of Chapter 59-1617 as amended by Chapter 59-1618.~~

<sup>1</sup>

KEEP  
HISTORY

**SECTION 1.02 - POWERS:**

~~The City shall have all powers possible for a city to have under the constitution and laws of the state as fully and completely as though they were specifically enumerated in the charter.<sup>2</sup> The powers of the City of North Port shall be construed liberally in favor of the City.<sup>3</sup>~~

Delete

<sup>1</sup> Historical reference removed.

<sup>2</sup> Article VIII, section 2(b) of the State Constitution: a provision was added to the 1968 Florida Constitution to grant municipalities broad home rule powers. Id. Article VIII, section 2(b) provides that “[m]unicipalities shall have governmental, corporate, and proprietary powers to enable them 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.”; See also Fl.Stat. 166.021; Section 1.01 Model City Charter 8<sup>th</sup> Edition Second Printing 2011;

<sup>3</sup> Moved from Section 1.03 of the City Charter of the City of North Port

*KEEP  
as revised*

~~The City of North Port, having been duly created as specified in Section 1.01, shall have all governmental, corporate and proprietary powers of the "Home Rule Powers Act" to enable it to conduct municipal government, perform municipal functions and render municipal services, and shall exercise any and all powers for municipal purposes within its corporate limits, except as otherwise provided by the Constitution, General or Special laws of the State of Florida, or County Charter, and as such shall have perpetual succession and seal.<sup>4</sup>~~

*MOVE TO  
1.01*

~~Name of the City was changed from the "City of North Port Charlotte" to "City of North Port." See Ordinance No. 74-5.<sup>5</sup>~~

### **SECTION 1.03 - CONSTRUCTION:**

*✓*

~~The powers of the City of North Port shall be construed liberally in favor of the City, limited only by the Constitution of the State of Florida, by general and special laws of the State of Florida, and specific limitations contained therein, and the County Charter. Future special acts pertaining to the jurisdiction and exercise of powers by this City shall be considered amendments to this Charter and, pursuant to provisions adopted for incorporation of other Charter amendments, shall be incorporated as official amendments to the Charter.<sup>6</sup>~~

In construing this Charter and each and every word, phrase, or part thereof, where the context will permit:

- (a) The singular includes the plural and vice versa.

---

<sup>4</sup> Removed and merged into Section 1.02.

<sup>5</sup> Historical reference removed.

<sup>6</sup> Moved and merged into Section 1.02 of the City Charter of the City of North Port.

✓ ~~(b) The masculine includes the feminine and neuter and vice versa.~~<sup>7</sup>

(c) The word "oath" includes affirmations.

(d) Reference to any office or officer includes any person authorized by law to perform the duties of such office.

(e) ~~"City or Municipality"~~ shall mean City of North Port, Florida.

#### **SECTION 1.04 - INTERGOVERNMENTAL RELATIONS:**

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, political subdivisions or districts, or agencies of the State of Florida, or any other state, or the United States or any agency thereof.

### **ARTICLE II - CORPORATE BOUNDARIES**

#### **SECTION 2.01 - CORPORATE BOUNDARIES:**

~~The boundaries of the City shall be the legal description on file in the office of the City Clerk and is hereby incorporated by reference as the same may from time to time be amended as provided herein.~~<sup>8</sup>

### **ARTICLE III - LEGISLATIVE**

#### **SECTION 3.01 - FORM OF GOVERNMENT AND COMPOSITION:**

---

<sup>7</sup> Modification by CRAB (Use official titles in place of gender pronouns).

<sup>8</sup> Moved to Section 13.05 (k) (Clerk's Duties) of the City Charter of the City of North Port. Annexation procedures are provided for in Florida Statutes Chapter 171.

ADD  
QUOTATION  
MARKS  
AROUND  
EACH INDIVIDUAL  
WORD

*MOVE TO INTRODUCTION* (a) - The form of government, ~~as established by the Special Legislative Enactment Chapter 59-1617 as amended by Chapter 59-1618, is hereby adopted~~ and <sup>9</sup>shall be a Commission/Manager plan. The Commission shall hereinafter be called the City Commission and shall constitute the governing body.

✓ (b) - The City Commission, with all legislative powers vested therein, shall consist of five (5) Commissioners elected by the ~~electors~~ voters of this City as provided herein. ~~and in accordance with election procedures established by Ordinance.<sup>10</sup> Beginning with the assumption of office meeting following the general election on November 6, 2012, and thereafter annually at the first regularly scheduled City Commission meeting in November, the City Commission shall elect, by majority vote, one of its members as Mayor, and one of its members as Vice Mayor. The Vice Mayor shall assume the duties of the Mayor in the absence thereof. The term of the Mayor and Vice Mayor shall be one (1) year. A Commissioner may not serve as Mayor or Vice Mayor for two consecutive terms.<sup>11</sup>~~

### **SECTION 3.02 - ELECTIONS AND TERMS OF OFFICE:**

(a) – Number of Districts. There shall be five (5) City Commission districts, numbers 1, 2, 3, 4, and 5.

(b) Districts.

(1) Adoption by Commission. The City Commission shall by ordinance adopt the boundaries of the five (5) districts.

---

<sup>9</sup> Historical reference removed

<sup>10</sup> Covered by §3.02 (j)

<sup>11</sup> Moved to § 5.03 (a) of the City Charter of the City of North Port

### 3.02 (B)

This entire districting procedure is a mess. Districting will be required in 2020 based on the 2020 census.

As the districting plan is currently written (including the CRAB's suggested changes...

The City SHALL approve a districting plan no later than 10 months (300 days) JANUARY, 2020 prior to the 1<sup>ST</sup> Regular City election (Assuming this is a presidential election that is Nov. 2020) following the decennial census. April 2020

Questions for discussion and consideration -

1. "Following the decennial census"
  - Does that mean when the census is taken or results are populated?
2. Prior to 1<sup>ST</sup> Regular City election
  - Does this mean presidential?  
primary election, what about a county special election the City participates in.
  - Too vague and ambiguous
3. SHALL APPROVE a districting plan 10 months (300 days)....
  - Approving district lines without the census even taken? With out the results of the census.

(2) Specifications. The districts shall meet the following specifications:

(a) Each district shall be formed of compact, contiguous territory;

(b) The districts shall be based on the principle of equal and effective representation as required by the United States Constitution;

(c) The districts shall be as equal in population as possible, with no more than a 5% deviation in population based on average population of the districts.

(3) Procedure.

*This did not get moved into 3.02(B)*  
*By commissioners or vote by referendum*  
~~(a) The City Commission shall hold one or more public hearings prior to bringing any proposed districting plan to a vote. Proposed plans must be available to the public for inspection and comment not less than one month before the first public hearing on said plan. The plan shall include a map and description of the recommended districts. The Commission may utilize management, staff or consultants in the drawing of the district boundaries.<sup>12</sup>~~

*MOVE TO INTRO.*  
*SEE ATTACHED*  
~~(b) The City Commission shall approve already approved an initial districting plan, through passage of an ordinance no later than December 31, 2014. Thereafter, the City Commission shall approve a districting plan no later than 10 months (300 days) prior to the first regular City election following the decennial census. Proposed~~

*what does this mean?*

---

<sup>12</sup> Moved and merged into 3.02 (3) (b).

plans must be available to the public for inspection and comment not less than one month before the first public hearing on said plan. The plan shall include a map and description of the recommended districts. The Commission may utilize management, staff or consultants in the drawing of the district boundaries.<sup>13</sup>This provision shall not be deemed to prohibit the City Commission from considering restructuring the boundaries of the districts in the event of major changes in the population of any district brought about by annexation, contraction, or substantial population shifts.

(4) Failure to Enact Ordinance. If the City Commission fails to enact a districting or redistricting plan within the required time, the City Attorney shall, the following business day, inform the Circuit Court, Sarasota County, and ask that a special master be appointed to do the districting/redistricting. The special master shall, within sixty days, provide the court with a plan drawn in accordance with the criteria set forth in ~~§3.02(b) (2)~~ §2.02 (b) (2). That plan shall have the force and effect of law unless the court finds it does not comply with said criteria. The court shall cause an approved plan to go into effect no later than 210 days prior to the first regular City election after the decennial census, ~~or if the plan is for the initial districts, by May 31, 2015.~~ The City shall be liable for all reasonable costs incurred by the special master in preparing the plan for the court.

How can our  
charter dictate  
these time frames  
for the  
court?

?  
There is  
no criteria  
in this  
referenced  
Section  
2.02(B)

---

<sup>13</sup> Moved from 3.02 (3) (a)

~~DISTRICT SEATS~~ IS NOT ACCURATE TERMINOLOGY  
DISTRICT 3 ETC  
We hold office in DISTRICT 1, DISTRICT 2,  
Redlined City Charter with Proposed Charter Amendments  
in Underline and Strikethrough Format as of January 17, 2017  
~~VERIFY~~

Dr is the actual  
4A + 4B missing

A ~~(a)~~ Initial implementation of Districts. Districts Seat Number 1, 2 and 3 shall be implemented for the general and primary elections in 2016 taking the place of the three non-districted seats that would have been up for election in 2016. Districts Seat Numbers 4 and 5 shall initially be implemented for the general and primary elections in 2018, taking the place of the two non-districted seats that would have been up for election in 2018. A sitting commissioner who is affected by the districting may serve out the balance of ~~his or her~~ their term as a representative of ~~his or her~~ their former seat.

B ~~(b)~~ Each Seat on the City Commission is hereby designated as District Seat Numbers 1, 2, 3, 4 and 5 respectively. The five City Commissioners shall be elected, at large, to one of the five district seats.

City Commissioners shall hold office for a term of four years and may serve for no longer than two consecutive full terms inclusive of terms prior to 2012. No person shall be elected to the office of a city commissioner more than twice, and no person who has held the office of a city commissioner, or acted as a city commissioner, for more than two years of a term to which some other person was elected city commissioner shall be elected to the office of a city commissioner more than once.<sup>14</sup>

At the 2016 primary and general municipal election, three Commissioners shall be elected to District Seat Numbers 1, 2 and 3 respectively. Except as otherwise provided herein, primary and general municipal elections for District Seat Numbers 1, 2 and 3 shall be conducted every four years thereafter. At the 2018 primary and general municipal election, two (2) Commissioners shall be elected to District Seat Numbers 4 and 5, respectively. Except as otherwise provided

<sup>14</sup> Language from Ordinance 2016-12.

Except for the Pink highlighted portion  
do we really need the remaining  
language? By the time this goes to  
citizen vote (2018?) it will be irrelevant

herein, Primary and General municipal elections for **District Seat** Numbers 4 and 5 shall be conducted every four years thereafter.

(e) - All elections to the Office of Commissioner shall be on a nonpartisan basis without regard for or to designation of the political party affiliation of any candidate on any petition or ballot.

(f) - Municipal elections shall be conducted every two (2) years. City Commissioners shall be elected to serve a term of four (4) years to fill vacancies occasioned by the expiration of the terms of members of the City Commission and shall serve until their successors are elected, qualified and sworn.

(g)<sup>15</sup> - Every candidate for City Commission shall be nominated for such office by the filing of a petition ~~containing~~ providing the following:

(1) - The nominee's name, place of residence, Commission **District Seat** Number (1 through 5). The candidate must reside in the district for which they ~~run~~ for which he/she seeks to be a candidate; and<sup>15</sup> **QUALIFY**

(2) - The signatures of not less than twenty-five (25) qualified ~~electors~~ voters of the District within the City of North Port. Each signature shall be made in ink and the residence address of each signatory shall be provided opposite the signature.

Petition forms shall be obtained from the City Clerk. Each candidate shall notify the City Clerk which Commission **District Seat** ~~he/she~~ the candidate will be seeking when petition forms are obtained.

---

<sup>15</sup>Clarified CRAB 04-28-2016 (a commissioner must reside in the district to which they are elected).

~~Candidates may seek election to only one District Commission Seat at a time.~~<sup>16</sup> ~~Prior to obtaining petition forms, candidates for City Commission shall take and subscribe to a written oath or affirmation which shall be furnished by the City Clerk and which shall be substantially in the form provided in F.S. § 99.021(1)(a) (2007), as amended.~~<sup>17</sup> ~~Prior to obtaining petition forms, each candidate shall also appoint a treasurer and designate a primary depository.~~<sup>18</sup> Completed nominating petitions shall be filed with the City Clerk any time after noon of the 71<sup>st</sup> day prior to the first primary, but not later than noon of the 67<sup>th</sup> day prior to the date of the first primary. Signatures shall be verified by the Supervisor of Elections at candidate expense upon filing.<sup>19</sup>

~~(h) Except as otherwise provided in this Section, general municipal elections shall be held each even-numbered year on the~~

<sup>16</sup> Covered by Florida

Florida Statute 170.01, which is preempted to the state conduct of municipal

Florida Statute 170.01 governs the conduct of municipal government and ordinance provisions that exempt a municipality from the provisions of the Charter. (2) The Charter shall not apply to a municipality qualifying and for the purpose of the orderly transition

<sup>17</sup> Covered by Florida

<sup>18</sup> Covered by Florida

<sup>19</sup> Verified with City

Anytime something is removed because it is covered in FL State Statute and/or is not reference does not make it the Citizens Charter.

It may be redundant but the citizens don't know the process or the State Statute.

The Charter, how I, as a candidate, learned the initial process to consider a run for office. §

## Consistency

Redlined City Charter with Proposed Charter Amendments  
in Underline and Strikethrough Format as of January 17, 2017

first Tuesday after the first Monday in November.<sup>20</sup> If less than two

~~any~~ persons qualify for nomination to ~~any~~ Commission District Seat, the qualifying nominee shall be deemed elected upon the closing of the qualification period. In each year in which a general municipal

election is held and more than two persons qualify for nomination

to a ~~particular~~ District Seat, a primary election for nomination of City Commission candidates shall be held on the Tuesday ten (10) weeks prior to the general municipal election. If

any nominee in the primary election receives fifty percent (50%) of the total votes cast in the primary election for the Commission

District Seat he/she is nominated for, plus one vote, such nominee shall be declared elected to the Commission District Seat without the necessity of running in the general municipal election. If in the

primary election for a Commission District Seat, no nominee receives fifty percent (50%) of the total votes cast in the primary election for said Commission District Seat, plus one vote, the two (2)

nominees receiving the highest number of votes in the primary election for a particular Commission District Seat shall be declared candidates for said Commission District Seat and run in the general

municipal election. The candidate for a Commission District Seat who receives the highest number of votes among the candidates for said District Seat in the general municipal election shall be declared

elected to that District Seat. In the event of a tie vote in the primary

<sup>20</sup> Covered by Florida Statutes § 100.031. See also City Charter § 3.02 (J). Florida State Statute §100.3605 "(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities. (2) The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes."

or general election for a particular Commission District Seat, the tie shall be resolved by drawing lots.

(i) Beginning of term. Terms will begin two business days following the certification of ballots by the Supervisor of Elections. The City Commission shall convene for the purpose of announcing the election results, and the newly elected Commissioner(s) shall subscribe to the oath of office.<sup>21</sup> *what time? The language did not move from 4.02*

(j) - The provisions of the general election laws of the State of Florida shall apply to elections held under this charter.<sup>22</sup>

(k) - All necessary arrangements shall be made by the City Commission.<sup>23</sup> *what does this mean? Arrangements for what?*

### **SECTION 3.03 - COMPENSATION:**

(a) - The City Commission shall receive an annual compensation and expense allowance as determined by the City's budget.

(b) - Any ordinance which changes the compensation of the Commissioners will not take effect until the next General City Election.

### **SECTION 3.04 - JUDGE OF QUALIFICATIONS:**

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<sup>21</sup> Moved from §§ 4.02 and 8.02 of the City Charter of the City of North Port. Two business days recommended by the City Clerk. *There is no 8.02 in the Charter*

<sup>22</sup> Moved from §8.01 (a) of the City Charter of the City of North Port.

Florida Statute § 97.0115 "Preemption. — All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law. The conduct of municipal elections shall be governed by § 100.3605."

<sup>23</sup> Moved from §8.01 (b) of the City Charter of the City of North Port

The City Commission shall be the judge of the election and qualifications of its own members and its decision shall be reviewable only by the courts of competent jurisdiction.

**SECTION 3.05 - QUALIFICATIONS OF ELECTED MEMBERS:**

(a) - Members of the City Commission shall be citizens of the United States, State of Florida and the City of North Port and shall be registered voters of the City of North Port.

(b) - Candidates for a City Commission district seat must be a resident of that District for a minimum of one (1) year prior to filing for election. ~~A one (1) year district residency requirement as determined by voter registration for the office of Commissioner at the time of filing is hereby established.~~<sup>24</sup>

*Keep and clarify*  
(c) ~~Members of the City Commission shall~~ RESIGN ~~discharge~~ the duties of each respective office and shall hold no other government office or be employed by the City of North Port during their respective terms of office.<sup>25</sup>

*KEEP*  
(d) ~~Public officials and employees of the City of North Port shall be governed by the Code of Ethics for Public Officers and Employees as provided in Part III of Chapter 112 Florida Statutes as amended (112.311 and 112.313, et seq, Florida Statutes as the same may from time to time be amended) and by those additional standards of conduct that may be or are adopted by ordinance. Violations of any provisions of such Code of Ethics or standards of conduct in addition to any criminal penalty involved shall, pursuant to the constitutional and statutory procedures,~~

<sup>24</sup> 2016 election experience.

<sup>25</sup> Covered by Florida Statutes §§ 99.021 (b) & 112.3143.

~~constitute grounds for removal and punishment as provided by general law.~~<sup>26</sup>

#### **ARTICLE IV - CANVASSING ELECTIONS AND ASSUMPTION OF OFFICE.**

##### **SECTION 4.01 - CANVASSING ELECTIONS:**

~~At the hour of 9:30 a.m., on the day following the certification of ballots by the Supervisor of Elections after the special or general election, the City Commission shall convene for the purpose of publicly canvassing said election at which time the Commissioner(s) elect shall be officially announced.~~<sup>27</sup>

##### **SECTION 4.02 - ASSUMPTION OF OFFICE:**

~~At the hour of 9:30 a.m., on the day following the certification of ballots by the Supervisor of Elections, the City Commission shall convene and the newly elected Commissioners shall subscribe to the oath of office.~~<sup>28</sup>

##### **SECTION 4.03 - VACATION OF OFFICE:**

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<sup>26</sup> Covered by Florida Statutes §112.317.

<sup>27</sup> Moved to §3.02 (i) of the City Charter of the City of North Port.

<sup>28</sup> Moved to §3.02 (i) of the City Charter of the City of North Port.

The office of a Commissioner shall become vacant upon his the  
commissioner's death, resignation, removal from office in any manner  
authorized by law.<sup>29</sup>

## ARTICLE V - JURISDICTION AND RESPONSIBILITIES

### SECTION 5.01 - POWERS OF THE CITY: PROHIBITIONS

*to this referring to NPPD?*  
*This is NOT redundant 1.02*  
(a) ~~The police powers of the City of North Port and the police jurisdiction granted under this Charter shall extend to and be in full force and effect upon all property within the corporate limits as defined in this Charter.~~<sup>30</sup>

*DELETE*  
(b) - The City may ~~not~~<sup>31</sup> borrow money, contract loans and issue bonds (general obligation or revenue) to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property and taxing power of the municipality for the payment of such debts and bonds,  
*DELETE*  
~~unless approved by a majority of the qualified electors voters in a general or special election. No~~  
*ONCE*  
general obligation bonds or revenue bonds shall be issued by the City ~~unless~~ approved by vote of a majority of the ~~qualified electors voters~~ of the City ~~voting on the issuance of such bonds~~ in a general or special election.<sup>32</sup>  
*DELETE*

~~(c) The City shall have all the powers granted to municipal corporations and to cities by the Constitution and laws of this State and~~

<sup>29</sup> Moved to Art VII of the City Charter of the City of North Port. Covered by Florida Statutes §114.01

<sup>30</sup> Redundant of §1.02 of the City Charter of the City of North Port.

<sup>31</sup> Motion carried unanimously 03-01-2016 to revert Section 5.01(b) back.

<sup>32</sup> Change "qualified electors" to "voters".

*This is  
Not redundant  
in 1.02*  
by this Charter, together with all the implied powers necessary to carry  
into execution all the powers granted. Except as prohibited by the  
Constitution of this State, general or special laws, County Charter, or as  
restricted by this Charter, the City shall and may exercise all municipal  
powers, functions, rights, privileges and immunities of every name and  
nature whatsoever.<sup>33</sup>

~~DELETE~~  
**SECTION 5.02 ~~POWERS OF THE CITY COMMISSION:~~**

All powers in the City, except as otherwise provided in this Charter  
or by the Constitution of the State of Florida, or by general or special  
laws or County Charter are vested in the City Commission. The City  
Commission shall determine the manner in which such powers of this  
City shall be exercised as prescribed by ordinance or resolution.

*clean up  
wording!*  
(a) Neither the Commission, nor any member thereof, shall dictate  
the appointment of any person to office or employment by the  
City Manager or in any manner prevent the City Manager from  
exercising his own judgment in selecting the personnel of the  
City Manager's subordinates, and its members shall deal with  
the Administrative service through the City Manager, and  
neither the Commission, nor any member thereof, shall give  
orders to or make requests upon any of the subordinates of the  
City Manager, either publicly or privately. Any such dictation,  
orders, requests or interference upon the part of a member of  
the City Commission with the administration of the City shall be  
cause for the City Commissioner's removal from office.<sup>34</sup> But  
the Commission may express its views and ~~fully and~~ freely

*individual*

<sup>33</sup> Redundant of §§ 5.01(a) & §1.02 of the City Charter of the City of North Port.

<sup>34</sup> Moved from §12.06 of the City Charter of the City of North Port.

discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.<sup>35</sup>

- b) Investigations. The City Commission may make investigations into the affairs of the city and the conduct of any city department, ~~office or agency~~ and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.<sup>36</sup>

### SECTION 5.03 - POWERS OF THE MAYOR:

(a) - At the first regularly scheduled City Commission meeting in November, the City Commission shall elect, by majority vote, one of its members as Mayor, and one of its members as Vice-Mayor. The Vice-Mayor shall assume the duties of the Mayor in the absence thereof. The term of the Mayor and Vice-Mayor shall be one (1) year. A Commissioner may not serve as Mayor or Vice-Mayor for two consecutive terms.<sup>37</sup>

(b) - The Mayor shall preside at all meetings of the City Commission, perform such other duties consistent with the office as may be imposed upon it by law or City Council, and shall have a vote in the proceedings of the Commission. 5.03(A)

(b) (c) - ~~The Mayor~~ During election cycles this cannot be done @ the 1st Commission meeting. There is no way to elect mayor etc until after new Commission is sworn.

<sup>35</sup> § 2.05 (b) 1.

<sup>36</sup> § 2.09 Model Cl.

<sup>37</sup> Moved from § 3.01(1).

official head of the City by the courts for the purpose of serving civil process; in the exercising of military law and for all ceremonial purposes; be responsible to see that all laws, provisions of this Charter and acts of the Commission are faithfully executed; sign on behalf of the City all intergovernmental agreements, ordinances, resolutions and any other official documents.

**SECTION 5.04 - ORGANIZATIONAL STRUCTURE OF CITY GOVERNMENT:**

(a) - The City Commission shall, by ordinance, activate or deactivate departments as deemed necessary for the efficient administration and operation of City government. The following departments may not be deactivated except by referendum:

- (1) - City Manager
- (2) - Police Department
- (3) - Fire Rescue District
- (4) - Department of Finance

(b) - The following offices shall not be subject to abolishment by the City Commission: ~~(X)~~ Then how are these offices abolished?

- (1) - City Clerk
- (2) - City Attorney

**SECTION 5.05 - APPOINTMENTS OF ADVISORY BOARDS & COMMITTEES:** ~~(X)~~ OUR ADVISORY BOARDS ARE IMPORTANT!

**KEEP!**  
~~The City Commission may appoint advisory boards and committees composed of citizens qualified to act in an advisory capacity to the City Commission, the City Manager or to any department of the City government, with respect to the conduct and management of any~~

*This paragraph is NOT redundant in 1.02*  
~~property or institution or the exercise of any public function of the City. The members of any such board or committee shall serve without compensation for the time fixed in their appointment or at the pleasure of the Commission, and their duties shall be to consult and advise with appropriate municipal officers and make written recommendations, which shall become part of the records of the City.~~<sup>38</sup>

#### SECTION 5.06 - STANDING ADVISORY BOARDS:

The City Commission shall always maintain the following Advisory Boards:

- (a) - Charter Review Advisory Board
- (b) - Planning & Zoning Advisory Board

The City Commission may appoint additional advisory boards and committees with respect to the exercise of any function of the City.<sup>39</sup>

#### ARTICLE VI - MEETINGS OF THE COMMISSION

##### SECTION 6.01 - MEETINGS:

*oops! OK TO KEEP ORIGINAL CHANGES!!*  
The City Commission shall meet at such time and place as prescribed by ordinance, except that it shall meet regularly not less than once each month but not in the month of August. If there is more than one general meeting per month, one shall be scheduled in the evening.<sup>40</sup> All meetings shall be public ~~and any person shall have the right to be heard on any matter before the Commission,~~ except as

<sup>38</sup> Redundant of §1.02 of the City Charter of the City of North Port.

<sup>39</sup> Moved from section 5.05.

<sup>40</sup> Added by CRAB 03-01-2016 (evening meeting).

~~provided by State Law. The public shall have the right to be heard as provided in City Code~~<sup>41</sup>

OK  
///

#### SECTION 6.02 - RULES:

(a) - The City Commission shall determine its own regulations, rules and order of business. ~~In promulgating the regulations, rules and order of business proceedings, the City Commission~~ and shall be guided by parliamentary law procedures.<sup>42</sup>

~~(b) The Chief of Police, or his a duly designated deputy, shall attend all meetings of the City Commission and aid in the enforcement of order under the direction of the presiding officer.~~<sup>43</sup>

#### SECTION 6.03 - QUORUM:

A majority of all members of the City Commission shall constitute a quorum, but a lesser number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance. No action of the Commission, except as otherwise provided for herein and in Article VII VI (Vacancies) hereof, shall be binding unless adopted by the affirmative vote of the majority of a quorum present.

#### SECTION 6.04 - MAJORITY VOTE REQUIREMENTS:

ARTICLE VII addresses vacancies not Article VI

<sup>41</sup> Language from Ordinance No. 04-40 approved by referendum November 2, 2004.

<sup>42</sup> Removing unnecessary language.

<sup>43</sup> Redundant of §1.02 of the City Charter of the City of North Port.

It shall require a majority vote of the entire City Commission for the enactment of ordinances, resolutions and contractual commitments unless otherwise specified in this Charter, ordinance or general law.

**SECTION 6.05 - JOURNAL:**

**KEEP**  
**THE CITY CLERK**  
~~The City Commission shall keep a journal of record (minutes) recording the proceedings of all meetings. This record shall be a public record and any person shall have access to the journal at all reasonable times.~~<sup>44</sup>

**SECTION 6.06 - VOTING:**

**KEEP**  
~~Voting on ordinances shall be by roll call and shall be so recorded in the journal. All other issues may be by voice vote (yeas or nays) or at the option of the presiding officer, by roll call vote.~~<sup>45</sup>  
**This is not redundant with 1.02**

**SECTION 6.07 - CONFLICT OF INTEREST:**

~~Section 112.3143, Florida Statutes, as the same may from time to time be amended, is hereby adopted and incorporated by reference.~~<sup>46</sup>

**ARTICLE VII - VACANCIES**

**SECTION 7.01 - VACANCY IN THE OFFICE OF MAYOR VACANCIES:**

**IMMEDIATELY UPON UPON**  
Vacancies. The office of a commissioner shall become vacant~~upon~~  
the commissioner's death, resignation, or removal of office or forfeiture of office in any manner authorized by law.  
**Delete**

<sup>44</sup> Duplicative of §§13.05 (b) and (j) (Clerk's duties) of the City Charter of the City of North Port

<sup>45</sup> Redundant of §1.02 of the City Charter of the City of North Port.

<sup>46</sup> Redundant of §3.05 (d) of the City Charter of the City of North Port.

<sup>47</sup> Moved from §4.03 of the City Charter of the City of North Port. Covered by Florida Statutes §114.01

In the event a vacancy occurs in the Office of Mayor, the Vice-Mayor shall assume the duties of the Mayor for the remainder of the Mayor's unexpired term. The City Commission shall elect a new Vice-Mayor for the remainder of the Mayor's unexpired term.<sup>48</sup>

**SECTION 7.02 - VACANCY REQUIRING SPECIAL ELECTION FILLING VACANCIES:**

In the event a vacancy in the Office of City Commissioner occurs ninety (90) or more prior to the next general election, the Commission shall fill such vacancy by electing a qualified person to serve the remainder of the unexpired term of the person whose office was vacated.

7.02  
THE COMMISSION SHALL ACT  
IF A VACANCY OCCURS (SEE 7.01)

60 DAYS OR LESS TO AN  
ELECTION\* \_\_\_\_\_ WILL HAPPEN

IF A VACANCY OCCURS (SEE 7.01)  
61 DAYS OR MORE TO AN  
ELECTION\* \_\_\_\_\_ WILL HAPPEN.

KEEP IT SIMPLE

do so within thirty days following the occurrence of the vacancy, the election authorities shall call a special election to fill the vacancy when the registration books can be available, but not sooner than ninety days of the occurrence of the vacancy.<sup>49</sup>

WHAT IS THIS?

<sup>48</sup> Moved and merged into §5.03(a) of the city Charter of the City of North Port.

<sup>49</sup> Covered by Florida Statutes §100.151 and Section 2.06 Model City Charter 8th Edition Second Printing 2011.

### **SECTION 7.03 - FILLING EXTRAORDINARY VACANCIES:**

In the event three (3) or more vacancies on the City Commission occur due to death, disability, forfeiture of office or resignation, the City Clerk shall immediately notify the Governor of the State who shall fill the vacancies by appointment and the same shall serve until the next general or special election. The City Clerk shall then declare these offices as vacancies and proceed with an election for the unexpired term of each position in accordance with the City's Election Ordinance.

## **ARTICLE VIII – ELECTIONS**<sup>50</sup>

### **SECTION 8.01 - PROCEDURE:**

~~(a) The provisions of the general election laws of the State of Florida shall apply to elections held under this charter.~~<sup>51</sup>

~~The general or special elections of the City shall proceed as prescribed by provisions of this Charter, and the Election Ordinance of the City, State law, and the rules and regulations of the Sarasota County Supervisor of Elections.~~<sup>52</sup>

~~(b) All necessary arrangements shall be made by the City Commission.~~<sup>53</sup>

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<sup>50</sup> Merged into §3.02 of the City Charter of the City of North Port

<sup>51</sup> Preempted by Florida Statute § 97.0115 Preemption. —All matters set forth in chapters 97-105 are preempted to the state, except as otherwise specifically authorized by state or federal law. The conduct of municipal elections shall be governed by § 100.3605; Section 6.01(c) Model City Charter 8th Edition Second Printing 2011.

<sup>52</sup> Restatement of existing laws.

<sup>53</sup> Moved to 3.02 (j) & (k).

KEEP  
AND  
MERGE  
WITH OTHER  
ELECTION  
ITEMS.

~~(c) Candidates for City Commission must qualify for election no later than 67 and no earlier than 71 days before the election. A candidate shall file his qualification papers with and pay the qualification fees to the City Clerk.<sup>54</sup>~~

## ARTICLE IX - LEGISLATIVE ENACTMENTS

### SECTION 9.01 - ORDINANCES AND RESOLUTIONS ENACTMENT:

*See Note*

*Article IX*

*Every thing in this entire IX section needs to be kept and revised. Reference FL State Statutes, as amended.*

*Nothing in this section is redundant with 1.02*

~~(a) The City Commission shall be authorized to introduce, amend, and pass resolutions and matters clearly in the title. No resolution shall be revised or amended only. An ordinance shall be noticed once in a newspaper and the notice shall state the ordinance proposed and the parties proposed to be noticed.~~<sup>56</sup>

<sup>54</sup> Covered by §3.02 (g) (2).

<sup>55</sup> Covered by Florida Statutes §166.041 (2) & (6)

<sup>56</sup> Covered by Florida Statutes §166.041 (3)(a) & (6).

~~(c) Each ordinance shall be considered at a Public Hearing at two (2) separate meetings at least one (1) week apart. On the first reading, the ordinance shall be read in its entirety unless the City Commissioners present at the first reading unanimously vote to waive full reading and have the Ordinance read by title only. The City Commission may waive reading of exhibits to ordinances. On the second and final reading, the proposed ordinance shall be read by title only and proffered for its adoption.~~<sup>57</sup>

~~(d) Each ordinance that is adopted by the City Commission shall be authenticated by the Mayor, the City Attorney and the City Clerk, and shall bear the seal of the City.~~

#### **SECTION 9.02 - EMERGENCY ORDINANCE:**

~~An emergency ordinance may be enacted when, by a vote of four (4) members of the City Commission, it is deemed necessary for the public health, safety and welfare of the City. An emergency ordinance shall not be enacted which modifies a franchise, land-use plan, appropriation, or budgetary matters or which rezones private real property. Administrative procedures for enactment shall be as prescribed by ordinance. If at least four (4) members of the City Commission are unavailable in times of an emergency for reasons beyond their control, the City Manager or the City Manager's designee may grant the initial and temporary procurement of goods and services. At the next regularly scheduled North Port City Commission meeting, the Commission shall consider whether to ratify the City Manager's actions.~~<sup>58</sup>

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<sup>57</sup> Covered by Florida Statutes §166.041 (3) (a) ("2 separate days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the municipality").

<sup>58</sup> Covered by Florida Statutes §166.041 (3) (b) & (6).

**SECTION 9.03 - GENERAL APPROPRIATION ORDINANCE/RESOLUTION:**

~~A general appropriation ordinance or resolution shall be enacted to reflect the daily operation of the City for each ensuing fiscal year. Administrative procedures for enactment shall be as prescribed by ordinance or resolution.~~<sup>59</sup>

**SECTION 9.04 - ANNEXATION ORDINANCE:**

~~The City Commission may annex any lands to the City of North Port by ordinance provided all requirements and administrative procedures are as stipulated by general law.~~<sup>60</sup>

**SECTION 9.05 - REZONING ORDINANCE:**

~~The rezoning of private real property from one zoning classification to another may be accomplished only by ordinance as prescribed by general law and ordinance.~~<sup>61</sup>

**SECTION 9.06 - BOUNDARY ORDINANCE:**

~~The City Commission shall, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Florida Department of State as prescribed by general law and ordinance.~~<sup>62</sup>

**SECTION 9.07 - ORGANIZATIONAL STRUCTURE ORDINANCE:**

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<sup>59</sup> Covered by Florida Statutes § 166.241.

<sup>60</sup> Covered by Florida Statutes §171.0413 (4).

<sup>61</sup> Covered by Florida Statutes §166.041 (3) (a) & (6).

<sup>62</sup> Covered by Florida Statutes Chapter 171.

See Note under IX

The City Commission may abolish or create municipal departments, except those stipulated in Article V, Section 5.04 herein,<sup>63</sup> and amend provisions of the Charter which have been judicially construed to be contrary to either the State or Federal Constitution or general or special laws of the State. Such actions shall be enacted by ordinance and sustained by the unanimous vote of the Commission.<sup>64</sup>

#### **SECTION 9.08 - RESOLUTIONS:**

A resolution is an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body. Therefore, a resolution shall be introduced in writing and shall embrace but one (1) subject and matters properly connected therewith. The subject shall be clearly stated in the title. A resolution shall be noticed once in a public place of the Municipality for at least five (5) days prior to adoption and shall be enacted at a City Commission meeting and may be read by title only and proffered for its adoption.<sup>65</sup>

#### **SECTION 9.09 - EFFECTIVE DATE:**

All ordinances, except emergency ordinances, enacted by the City Commission shall take effect as of the date of the second and final passage thereof, or at such time as provided therein. An emergency ordinance shall take effect immediately upon initial passage.

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<sup>63</sup> Redundant of §§1.02 & 5.04 of the City Charter of the City of North Port.

<sup>64</sup> Moved and merged into §10.01 of the City Charter of the City of North Port.

<sup>65</sup> Covered by Florida Statutes §166.041 (3) (a) & (6) (no 5 days' notice for resolutions).

SEE NOTE UNDER IX

~~Resolutions enacted by the City Commission shall take effect as of the date of adoption or as stipulated therein.~~<sup>66</sup>

#### SECTION 9.10 - CODIFICATION:

~~Immediately after adoption of this revised Charter, and at least annually thereafter, the Commission shall provide for the preparation of general codification of all City ordinances.~~<sup>67</sup>

#### ARTICLE X - CHARTER AMENDMENTS

##### SECTION 10.01 - AMENDMENTS, HOW AUTHORIZED:

(a) - The City Commission shall, by ordinance, amend any part of the Charter when such part is pre-empted by general or special laws, has been judicially construed to be contrary to either the State or Federal Constitution or the general or special laws of the State,<sup>68</sup> or when, as a result of annexation or de-annexation, the corporate boundaries of the City change. Upon passage of subject ordinance, the governing body shall have the amendment incorporated into the Charter and file same with the Florida Department of State..

~~(b) - The City Commission may, by ordinance, and~~ **T** ~~the electors voters of the City may, by a petition signed by ten percent (10%) five percent (5%)~~<sup>69</sup> of the registered voters, submit a proposed amendment to the Charter, or the Charter Review Advisory Board may recommend a

DELETE

SEE NOTE

10.1(b) - FL State Statute says  
10%

Our Ordinance 92-2 says  
10%.

Would we have to change  
the ordinance 1<sup>st</sup> or  
wait for voter approval?

<sup>66</sup> Covered by Florida  
Port

<sup>67</sup> Outdated, old lan

<sup>68</sup> Moved from §9.0

<sup>69</sup> Added by GRAB O

arter of the City of North

f North Port

DO WE  
WANT THE  
EXPENSE  
OF A  
SPECIAL  
ELECTION  
FOR ONLY  
CHARTER  
AMENDMENTS?

proposed amendment. The governing body shall subject the proposed amendment(s) or petition(s) to referendum at the next general election or at a special election called for that purpose. Upon passage of the amendment by majority of the electors voters voting in the referendum, the governing body, by ordinance, shall have the amendment incorporated into the Charter and shall file same with the Florida Department of State.

(c) - Amendments to the Charter shall be effective immediately after approval by the electorate: voters

## ARTICLE XI - ADMINISTRATION

### SECTION 11.01 - GENERAL POLICY:

~~Upon appointment, the City Manager shall be the Chief Administrative Officer of the City and shall be responsible to the City Commission for the proper and efficient administration of all City affairs placed in his the City Manager's charge by and under this Charter and as may be promulgated by ordinance.~~<sup>70</sup>

## ARTICLE XII - CITY MANAGER

### SECTION 12.01 - ACTIVATION OR DEACTIVATION OF OFFICE:

~~The submission of a petition to the governing body signed by ten percent (10%) of the registered electors voters shall cause the question of activating or deactivating said office to be placed upon a ballot for the next general election of the City.~~<sup>71</sup> ~~If the majority of those voting~~

<sup>70</sup> Redundant § 12.06 of the City Charter of the City of North Port

<sup>71</sup> Redundant of §§5.04 (a) (1), 10.01(b) and 15.01 of the City Charter of the City of North Port

~~approve the deactivation of said office, the City Government shall revert back to the Commission with a Mayor system.~~<sup>72</sup>

#### **SECTION 12.02 - APPOINTMENT AND QUALIFICATIONS:**

The City Commission shall appoint a City Manager by majority vote of the governing body. ~~He~~ The City Manager shall be appointed solely on the basis of ~~his~~ the City Manager's executive and administrative qualifications and without regard to ~~his~~ the City Manager's political persuasion. It shall not be necessary that the City Manager be a resident of the City at the time of ~~his~~ appointment; however, ~~he~~ the City Manager shall be required to establish residency in the City within a one (1) year period after appointment.

#### **SECTION 12.03 - COMPENSATION:**

The City Commission shall determine and establish the compensation for the City Manager.

#### **SECTION 12.04 - REMOVAL:**

The City Manager may be removed by a majority vote of the entire City Commission or by mutual consent of both parties.<sup>73</sup> ~~shall be removed from office for good cause by majority vote of the entire City Commission who shall within ten (10) days of such determination serve written notice to the City Manager. After having served one (1) year, the City Manager may demand written charges and a public hearing upon the same by the City Commission and the City Manager's final~~

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<sup>72</sup> Language is not consistent with ordinance 92-2 as amended. (see minutes dated 03/23/1992).

<sup>73</sup> Make consistent with §§13.03 and 14.03 of the City Charter of the City of North Port (Same removal provision for all Charter Officers)

~~removal shall not take effect until such hearing has been held, but the Commission may suspend him from office pending such hearing.~~<sup>74</sup>

**SECTION 12.05 - VACANCY:**

In the event of a vacancy occurring in the Office of the City Manager for any reason whatsoever, the City Commission shall designate a properly qualified person to execute the functions of the office until such time as a new City Manager is forthwith appointed.

**SECTION 12.06 - POWERS AND DUTIES:**

The City Manager, as Chief Administrative Officer of the City, shall be responsible to the City Commission for the proper administration and management of all affairs of the City including, but not limited to, those placed under ~~his~~ the City Manager's authority under this Charter. ~~Neither the Commission, nor any member thereof, shall dictate the appointment of any person to office or employment by the City Manager or in any manner prevent the City Manager from exercising his own judgment in selecting the personnel of his~~ the City Manager's subordinates, and ~~its members shall deal with the Administrative service through the City Manager, and neither the Commission, nor any member thereof, shall give orders to or make requests upon any of the subordinates of the City Manager, either publicly or privately. Any such dictation, orders, requests or interference upon the part of a member of the City Commission with the administration of the City shall be cause for his~~ the City Manager's removal from office.<sup>75</sup> ~~He~~ The City Manager shall:

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<sup>74</sup> Covered by contract language

<sup>75</sup> Moved to §5.02 (a) of the City Charter of the City of North Port

(a) -Supervise all governmental and proprietary functions of the City and all departments ~~and divisions.~~

*delete we don't have divisions*

(b) -Employ or remove all employees of the City (except appointees of the City Commission and the Legal Department) subject to the provisions of this Charter and all ordinances and personnel rules and regulations.

(c) -Promulgate such rules and regulations and amendments thereto for appointment, promotion, discipline and removal of employees of the City, except as otherwise provided for in this Section.

(d) -Enforce all ordinances, franchises and contracts of the City.

(e) -Attend all City Commission meetings, either in person or by his duly designated representative, with a voice but not a vote in the proceedings.

(f) - At the first meeting each month of the City Commission, submit a summary report of receipts and disbursements.

(g) ~~--Advise the City Commission of the financial and other needs of the City and submit an annual Operating and a Five year Capital Improvement Budget to the City Commission in which the City Manager shall furnish detailed estimates of the expenses of conducting all departments, divisions and all governmental and proprietary functions of the City and any other information which he deems advisable or which is required by the City Commission to determine budgetary requirements for the ensuing year.~~ Prepare and submit the annual budget and capital program to the City Commission; and implement the final budget approved by the Commission to achieve the goals of the city; submit to the City Commission and make available to the public a complete report on the finances and administrative activities of the city

*Capital Improvement Budget*

At the end of each fiscal year; make such other reports as the City

Commission may require concerning operations; Keep the City Commission fully advised as to the financial condition and future needs of the city.<sup>76</sup>

- (h) - Be the purchasing agent for the City.
- (i) - Sign warrants for payment of moneys for the City.
- (j) - Be custodian of all real property and tangible personal property of the City.
- (k) - Perform such duties as may be prescribed under this Charter or as may be required of such office ~~him or her~~ by ordinance or resolution of the City Commission.
- (l) - Determine whether any officer, clerk or employee shall require bonding and the amount thereof. When bonding shall be required, the costs of same shall be paid by the City of North Port.
- (m) - Sign all contracts, agreements and applications for the City of North Port after such has been approved by City Commission at a regular or special City Commission meeting.

### **ARTICLE XIII - CITY CLERK**

#### **SECTION 13.01 - APPOINTMENT AND QUALIFICATIONS:**

KEEP The City Commission shall, by majority vote, appoint the City Clerk ~~and a Deputy City Clerk~~<sup>77</sup> solely on the basis of ~~their~~ executive and

<sup>76</sup> Added by CRAB 04/28/2016 Section 3.04 (5) (6) (7) and (8) of the Model City Charter 8<sup>th</sup> edition Second Printing 2011.

<sup>77</sup> Removed by CRAB 04/28/2016 (no job functions specified except as provided in § 13.04 of the North Port City Charter). No order of reporting between the City Clerk and the Deputy City Clerk.

administrative qualifications and without regard to ~~their~~ political persuasion. It shall not be necessary that the City Clerk be a resident of the City at the time of the appointment; however, ~~he~~ the City Clerk shall be required to establish residency in the City within a one (1) year period after appointment.

And Deputy  
City Clerk

And  
Deputy  
City Clerk

### SECTION 13.02 - COMPENSATION:

The City Commission shall determine and establish the compensation for the City Clerk ~~and Deputy City Clerk.~~ **KEEP**

### SECTION 13.03 - REMOVAL:

The City Clerk may be removed by a majority vote of the entire City Commission or by mutual consent of both parties.<sup>78</sup> ~~and/or Deputy City Clerk shall be removed from office for good cause by a majority vote of the entire City Commission who shall within ten (10) days of such determination serve written notice to the City Clerk.~~

**ADD - THE DEPUTY CITY CLERK MAY BE REMOVED BY A MAJORITY.....  
(Same AS CITY CLERK)**

### SECTION 13.04 - VACANCY:

~~In the event of a vacancy occurring in the Office of the City Clerk for any reason whatsoever, the City Commission shall designate a properly qualified person to execute the functions of the office until such time as a new City Clerk is forthwith appointed.~~<sup>79</sup> **KEEP** The Deputy City Clerk shall carry out the duties of the City Clerk until such time as a new City Clerk is appointed.

### SECTION 13.05 - DUTIES:

<sup>78</sup> Make consistent §§12.04 and 14.03 of the City Charter of the City of North Port (Same removal provision for all Charter Officers).

<sup>79</sup> Make consistent §§12.05 and 14.04 of the City Charter of the City of North Port (Same provision for all the Charter Officers)

The City Clerk shall be the head of the Department of Records. ~~He~~ The City Clerk shall be the custodian of all official records of the City and the custodian of the official City Seal. ~~He~~ The City Clerk shall be responsible to the City Commission for the proper administration of all affairs concerning the records of the City placed in ~~his~~ the City Clerk's charge by and under this Charter and as may be promulgated by ordinance or by resolution but not limited to those placed under ~~his~~ the City Clerk's authority by this Charter.,~~and shall:~~ The City Clerk shall

(a) - Make recommendations concerning the records of governmental and proprietary functions of the City.

KEEP

~~(b) - Record all official actions of the City Commission.~~<sup>80</sup>

(c) - Serve as the election official for the City.

(d) - Authenticate documents of the City.

(e) - Attest all written contracts and instruments on behalf of the City.

(f) - Prescribe and be responsible for a system of review, retention and disposition of records of all governmental and proprietary functions of the City and all departments of the City.

(g) - Administer oaths required or authorized under general law, the City Charter or ordinance of the City.

(h) - Countersign warrants for payment of obligations.

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<sup>80</sup> Duplicative of §§6.05 and 13.05 (j) and of the City Charter of the City of North Port.

(i) - Perform such duties as may be prescribed by general law, by the City Charter, by ordinances of the City, or by direction of the City Commission.

(j) - Attend all meetings of the City Commission, either in person or by ~~his~~ the City Clerk's duly designated representative, give notice of all meetings to the City Commission and to the public,<sup>81</sup> and keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by ~~his~~ the City Clerk's signature and the signature of the presiding officer of the City Commission.

(k) – keep on file the legal descriptions of the boundaries of the City as amended.<sup>82</sup>

#### **ARTICLE XIV - CITY ATTORNEY**

##### **SECTION 14.01 - APPOINTMENT AND QUALIFICATIONS:**

The City Commission shall, by majority vote, appoint a City Attorney who shall be a lawyer admitted to practice in the State. It shall not be necessary that the City Attorney be a resident of the City at the time of appointment; however, the City Attorney shall be required to establish residency in the City within a one (1) year period after appointment.<sup>83</sup>

##### **SECTION 14.02 - COMPENSATION:**

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<sup>81</sup> §2.08 of the Model City Charter 8th edition Second Printing 2011

<sup>82</sup> Moved from §2.01 of the City Charter of the City of North Port

<sup>83</sup> Make consistent with §§12.02 and 13.01 of the City Charter of the City of North Port (Same provision for all the Charter Officers)

The City Commission shall determine the compensation for the City Attorney by contractual agreement.

**SECTION 14.03 - REMOVAL:**

The City Attorney may be removed by a majority vote of the entire City Commission or by mutual consent of both parties.

**SECTION 14.04 - VACANCY:**

In the event of a vacancy occurring in the Office of the City Attorney for any reason whatsoever, the City Commission shall designate a properly qualified person to execute the functions of the office until such time as a new City Attorney is forthwith appointed.<sup>84</sup> ~~In the event a vacancy occurs, the City Commission shall direct the City Clerk to cause the announcement of the vacancy and the City Commission shall appoint a City Attorney.~~

**SECTION 14.05 - DUTIES:**

(a) - The City Attorney shall be the legal advisor and counselor for the City Commission, the city manager, all city departments, offices, ~~agencies and city boards.~~<sup>85</sup> ~~for all departments and all of its officers in matters relating to their official duties.~~ He ~~The City Attorney~~ shall prepare or review all contracts, bonds, and all other legal and official instruments in which the Municipality is concerned and shall endorse on each ~~his~~ the City Attorney's approval of the form and correctness prior

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<sup>84</sup> Make consistent with §§12.05 and 13.04 of the City Charter of the City of North Port (Same provision for all the Charter Officers)

<sup>85</sup> Added by CRAB 04/28/2016 §4.03 of the Model City Charter 8th edition Second Printing 2011; "and city boards" added by CRAB at 08-16-2016 meeting.

was this set to  
the voters for a  
referendum?

to the commission's review. No formal contract legal document<sup>85</sup> with the Municipality shall take effect until such his the City Attorney's approval is so endorsed thereon legal opinion is provided.

? (b) - He ~~The City Attorney~~ shall act as prosecuting attorney before the Code Enforcement Board.<sup>87</sup>

(c) - He ~~The City Attorney~~ shall prosecute and defend on behalf of the City all complaints, suits, and controversies in which the City is a party except where the City's defense is provided either by contract or law by a third party.

(d) - He ~~Upon request, the City Attorney~~ shall furnish the City Commission, City Boards,<sup>88</sup> the City Manager and the head of any department, his the City Attorney's opinion on any question of law relating to official city business. any matter concerning their respective powers and duties.

(e) - He ~~The City Attorney~~ shall perform such other duties as are required of city attorneys under the general laws of the State of Florida.

SEE NOTE <sup>85</sup> language from previous charter. Changed via ordinance 1987-241, and 1988-18

<sup>87</sup> Cherry Communications v Deason, 652 So.2d 803 (Fla.1995). Florida Courts and The Florida Attorney General have cautioned against the same individual who prosecutes a case on behalf of an agency being the same individual who also serves to advise the agency in its deliberations. Metropolitan Dade County v Florida Processing Company, 218 So.2d 495, 497 (Fla. App. 3<sup>rd</sup> 1969), "It is sufficient for us to point out that it would be in closer accord with traditional notions of justice and fair play for a quasi-judicial administrative board to designate one person to act as its legal adviser and a different person to act as its prosecutor." See Brown v Walton County, 667 So. 2d 376 (Fla. 1st DCA 1995); see also Cotter v District Bd. Of Trustees of Pensacola Jr. College, 548 So. 2d 731 (Fla. 1st DCA 1989), rev. den. 558 So. 2d 17 (Fla. 1990).

<sup>88</sup> "and city boards" added by CRAB at 08-16-2016 meeting

15.01

FL STATE STATUTE SAYS  
10%

ad Charter Amendments  
mat as of January 17, 2017

OUR ORDINANCE SAYS ??  
IS IT THE SAME AS  
ORDINANCE 92-2?

orney shall advise the City Commission as to  
compliance with the provisions of the Charter

Would we have to change  
the ordinance 1st or  
wait for voter approval?

orney shall attend all meetings of the City  
person or by his the City Attorney's duly  
to supply those legal services as may be  
g.

## ARTICLE XV CITIZEN INITIATIVES

### SECTION 15.01 - GENERAL AUTHORITY:

The Citizens of the City shall have power to propose ordinances to the Commission or request reconsideration of adopted ordinances by petition signed by ~~ten percent (10%)~~ five percent (5%) of the qualified voters, ~~provided that such power shall not extend to:~~ (a) the budget or capital program; (b) any ordinance relating to appropriation of money; (c) salaries of City employees; (d) any aspect of land development, e.g. zoning, building construction, sign regulation, etc.; (e) emergency ordinances.

OR  
REMOVAL  
OF THE  
CITY  
MANAGER  
(FROM 12.01)

### SECTION 15.02 - PROCEDURE:

The procedure Procedure for implementation of a proposed proposal or reconsideration of an adopted ordinance shall be initiated or executed by ordinance.

## ARTICLE XVI - SUITS AGAINST THE CITY OR CITY OFFICIAL

### SECTION 16.01 - PROCEDURE:

(a) ~~No suit against the City may be instituted unless first presented in writing within thirty (30) days after the injury or damage has occurred with such reasonable specifications as to time and place and witnesses.~~

~~Written notice must be presented to the City Clerk. It shall be the duty of the City Manager, upon receiving such notice from the City Clerk, to submit a written report to the City Commission.~~<sup>89</sup>

→ (b) - Any suit against a City Official brought about as a result of an Official acting within the scope of his the City Official's authority shall be indemnified by the City.<sup>90</sup>

## ARTICLE XVII - SEVERABILITY CLAUSE

### SECTION 17.01 - GENERAL PROVISIONS:

Should any part, section, subsection, sentence, clause or provision of this Charter be construed by the courts of this State to be unconstitutional, ineffectual or inoperative for any reason, the remainder of this Charter shall not be affected.

<sup>89</sup> Preempted by Florida Statutes § 768.28(6)(a)

Please provide this statute.

<sup>90</sup> See also Florida Statutes §111.07 Defense of civil actions against public officers, employees, or agents

FL state  
statute  
111.07  
Covers  
a wider  
spectrum  
than just  
a suit.