

Submitted by Citizen Conni Brunn for 4/3/2017 Mtg

NOTE: Historical references could be attached as an appendix.

ARTICLE I - CREATION, POWERS, AND CONSTRUCTION

SECTION 1.01 – CREATION

The City of North Port, County of Sarasota, State of Florida was created as of June 18, 1959.

Name of the City was changed from "City of North Port Charlotte" to "City of North Port," per Ordinance No. 74-5.

SECTION 1.02 – POWERS

- (a) The City shall have all the powers granted to municipal corporations and to cities by the Constitution and laws of the State and by this Charter, together with all 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 exercise all municipal powers, functions, rights, privileges, and immunities of every name and nature whatsoever.
- (b) The City may borrow money, contract loans and issue bonds (general obligation or revenue) from time to time 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. No general obligation bonds shall be issued by the City unless approved by vote of a majority of the voters of the City voting in a general or special election.
- (c) 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.

SECTION 1.03 – CONSTRUCTION

- (a) The powers of the City of North Port shall be construed liberally in favor of the City.
- (b) In construing this Charter and each and every word, phrase or part thereof, where the context will permit:
 - 1. The singular includes the plural and vice versa.
 - 2. The word "oath" includes affirmations.
 - 3. Reference to any office, officer, or official includes any person authorized by law to perform the duties of such office or position.
 - 4. "City" or "Municipality" shall mean the 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 – GOVERNANCE

SECTION 2.01 – FORM OF GOVERNMENT AND COMPOSITION

- (a) The form of government 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 voters of this City as provided herein.

SECTION 2.02 – DISTRICTING AND RE-DISTRICTING PLANS

- (a) There shall be five (5) City Commission districts, numbers 1, 2, 3, 4, and 5.
- (b) The City Commission shall by ordinance adopt the boundaries of each of the five (5) districts using the following specifications:
 - 1. Each district shall be formed of compact, contiguous territory;
 - 2. Each district shall be based on the principle of equal effective representation as required by the United States Constitution;
 - 3. Each district shall be as equal in population as possible, with no more than a 5% deviation in population based on average population among the districts.
- (c) The City Commission approved a districting plan by Ordinance No. 2014-41 on 12-1-14. District Seats Number 1, 2, and 3 were implemented for the primary and general elections of 2016. District Seats Number 4 and 5 will be implemented for the primary and general elections of 2018.
- (d) The City Commission shall approve a re-districting plan by ordinance no later than 10 months (300 days) prior to the first City primary election following each decennial census.
 - 1. Proposed plans must be available to the public for inspection and comment not less than 1 month before the first public hearing on said plan. Proposed plans shall include a map and description of recommended district boundaries.
 - 2. Redistricting provisions shall not be deemed to prohibit the City Commission from considering restructuring 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 prior to the decennial census results.
 - 3. The City Commission may utilize management, staff, or consultants in the drawing of proposed district boundaries.
 - 4. Any adopted redistricting plan will take effect at the primary election following final approval of said plan.
 - 5. A sitting Commissioner who is adversely affected by the redistricting plan may serve out the balance of their term as a representative of their former District Seat.
- (e) If the City Commission fails to enact a redistricting plan within the prescribed time, the City Attorney shall, the following business day, inform the Circuit Court, Sarasota County, and ask that a special master be appointed to perform the redistricting. The special master shall, within 60 days, provide the court with a redistricting plan drawn in accordance with the criteria set forth in Section 2.02(b)1, 2, and 3. The special master's redistricting 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 redistricting plan to go into effect no later than 210 days prior to the first City primary election after the decennial census. The City shall be liable for

all reasonable costs incurred by the special master in preparing the redistricting plan for the court.

SECTION 2.03 – TERM OF OFFICE

- (a) 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 in which they reside throughout their respective term of office.
- (b) City Commissioners shall hold office for a term of four years. No person shall be elected to the office of City Commissioner more than twice. A person acting as a City Commissioner for any period of an unexpired term may not be elected more than once to the office of City Commissioner. **(***area of discussion***)**
- (c) A Commissioner shall serve until their successor has been qualified, elected, and sworn the oath of office.

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SECTION 2.04 – ELECTIONS

- (a) All provisions of the general election laws of the State of Florida shall apply to elections held under this charter.
- (b) All elections to the office of Commissioner shall be on a nonpartisan basis without regard for the candidate's political party affiliation, and no party affiliation will appear on any petition, ballot, or campaign materials.
- (c) Municipal elections shall be conducted every two (2) years to fill District Seats of the City Commission members whose terms are expiring, unless a vacancy occurs which requires an election to fill the vacancy.
- (d) Every candidate for City Commission shall be nominated for such office by filing a petition providing the following information:
 - 1. The nominee's name, place of residence, and Commission District Seat number sought by the candidate (1 through 5). Nominees must reside within the district for which they file the petition.
 - 2. The signatures of not less than twenty-five (25) qualified voters of the District being sought by the candidate 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. **(***area of discussion***)**
 - 3. Petition forms shall be obtained from the City Clerk. Each candidate shall notify the City Clerk which Commission District Seat the candidate is seeking when the petition forms are obtained.
 - 4. Completed nominating petitions shall be filed with the City Clerk any time after noon of the 71st day prior to the first primary election, but not later than the 67th day prior to the date of the first primary election. Petition signatures shall be verified by the Supervisor of Elections at candidate expense upon filing.
- (e) If less than two (2) persons qualify for nomination to a Commission District Seat, the qualifying nominee shall be deemed elected upon the closing of the qualification period.
- (f) If only two (2) persons qualify for nomination to a particular Commission District Seat, there shall not be a primary election held for that particular seat. Both candidates will run in the general election.

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- (g) In each year when a general municipal election is held and more than two (2) persons qualify for nomination to a particular District Commission Seat, a primary election for nomination of City Commission candidates for that particular District Seat shall be held on the Tuesday ten (10) weeks prior to the general municipal election.
1. If any nominee in the primary election receives fifty percent (50%) plus one vote of the total votes cast in the primary election for that District Seat, such nominee shall be declared elected to that Commission District Seat without necessity of running in the general municipal election.
 2. If, in the primary election for a Commission District Seat, no nominee receives fifty percent (50%) plus one vote of the total votes cast in the primary election, then the two (2) nominees receiving the highest number of votes for that particular Commission District Seat shall be declared candidates for said Commission District Seat and they shall run in the municipal general election.
 3. The candidate for a Commission District Seat who receives the highest number of votes for each District Seat shall be declared elected to that District Seat
- (h) In the event of a tie vote in the primary or general election for a particular Commission District Seat, the tie shall be resolved by drawing lots.
- (i) Term of office for City Commissioners will begin two (2) business days following the certification of ballots by Sarasota County Supervisor of Elections. The City Commission will convene at that time for the purpose of announcing the election results and newly elected Commissioner(s) shall subscribe to the oath of office at that special meeting.
- (j) All necessary arrangements shall be made by the City Clerk. (**for _____??**) 3

SECTION 2.05 – QUALIFICATIONS OF NOMINEES, CANDIDATES, AND ELECTED MEMBERS

- (a) Nominees and candidates for a Commission District Seat must be a resident of that particular district for a minimum of one (1) year prior to the close of the qualification period for nominees, as determined by voter registration records of the Sarasota County Supervisor of Elections.
- (b) Nominees and candidates for City Commission and Members of the City Commission, for the duration of their candidacy and term of office, shall be citizens and registered voters of the United States, State of Florida, and City of North Port within the District for which they are nominated and/or elected.
- (c) City Commissioners must reside within their respective District for the duration of their term. If a Commissioner relocates out of their District, but within Sarasota County due to a declared emergency or loss of residence due to emergency circumstances, said Commissioner shall have six (6) months to re-establish residency within their respective City District. If said Commissioner is unable to re-establish residency within the initial six (6) month deadline for good cause, then the Commissioner may be granted a one-time extension for an additional six (6) months in order to re-establish residency by a majority vote of the City Commission, excluding the individual affected. If a Commissioner is unable or unwilling to re-establish residency within their respective City District after the provided deadline(s), the Commission District Seat will be declared vacant at the close of business on the day of the final deadline. At no time may a Commissioner relocate outside of Sarasota County without the District Seat being declared vacant. (**area of discussion**) 4

ARTICLE III – VACANCY OF CITY COMMISSIONER(s)

SECTION 3.01 - DEFINITION

A vacancy shall be created immediately upon the expiration of a Commissioner's term, submission of a letter of resignation, or when a Commissioner fails to meet the residency requirement, dies, or is removed from office in any manner authorized by law.

SECTION 3.02 – FILLING OF VACANCY

(** area of discussion **)

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SECTION 3.03 – EXTRAORDINARY CIRCUMSTANCES

In the event three (3) or more vacancies on the City Commission occur as defined in Section 3.01 of this Charter, the City Clerk shall immediately notify the Governor of the State who shall fill the vacancies by appointment, and the appointee(s) shall serve until the next general or special election. At the time of the next general or special election, the City Clerk shall proceed with an election for the unexpired term of each vacant Commissioner seat in accordance with the City's Election Ordinance and this charter.

ARTICLE IV – ETHICS

All Officers, employees and contractors 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 may be amended from time to time, and by those additional standards of conduct that may be adopted by Ordinance.

ARTICLE V – CITY COMMISSION AUTHORITIES

SECTION 5.01- POWERS OF THE CITY COMMISSION

All powers of 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.

SECTION 5.02 – INVESTIGATIONS (area of discussion**)**

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The City Commission may make investigations into the affairs of the city and the conduct of any city department, office, or contractor. In order to carry out investigations under this section, the City Commission may subpoena witnesses, administer oaths, take testimony, and require the production of evidence relative thereto. A majority vote of the City Commission is required to initiate any investigative process.

SECTION 5.03 – LIMITATIONS OF COMMISSION POWERS

- (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 interfere with the

City Manager's exercise of judgement in personnel selections of the City Manager's subordinates. City Commission members shall deal with administrative services through the City Manager, and neither the Commission, nor any member thereof, shall give orders to or make requests of any of the City Manager's subordinates, including contracted consultants, either publicly or privately unless authorized to do so by the City Manager.

- (b) Neither the Commission, nor any member thereof, shall dictate the appointment of any person to office or employment by the City Attorney or in any manner interfere with the City Attorney's exercise of judgement in personnel selections of the City Attorney's subordinates. City Commission members shall deal with legal services through the City Attorney, and neither the Commission, nor any member thereof, shall give orders to or make requests of any of the City Attorney's subordinates, including contracted consultants, either publicly or privately unless authorized to do so by the City Attorney. **(***b and c are areas of discussion***)**

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- (c) Neither the Commission, nor any member thereof, shall dictate the appointment of any person to office or employment by the City Clerk or in any manner interfere with the City Clerk's exercise of judgement in personnel selections of the City Clerk's subordinates. City Commission members shall deal with public records services through the City Clerk, and neither the Commission, nor any member thereof, shall give orders to or make requests of any of the City Clerk's subordinates, including contracted consultants, either publicly or privately unless authorized to do so by the City Clerk.

SECTION 5.04 – POSITION OF MAYOR

- (a) At the second regularly scheduled City Commission meeting in November each year, 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 Mayor in the absence thereof. Term of Mayor and Vice Mayor shall be one year each, and a commissioner may not serve as Mayor or Vice Mayor for more than one consecutive term. **(***area of discussion***)**
- (b) The Mayor shall preside at all meetings of the City Commission, perform such other duties consistent with the position as may be imposed upon it by law or City Ordinance, and the Mayor shall have a vote in the proceedings of the Commission. The commissioner serving as mayor shall have legislative and governing powers commensurate with all other commissioners.
- (c) The mayor may use the official title when necessity arises from the general laws of the State. The Mayor shall be recognized as the official head of the City by the courts for the purpose of serving civil process; in the exercising of military law; and for all ceremonial purposes; sign on behalf of the City all intergovernmental agreements, ordinances, resolutions and any other official documents.

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SECTION 5.05 – CITY COMMISSION COMPENSATION

- (a) The City Commission shall receive an annual compensation, benefits, and expense allowance in the same manner as general city employees.
- (b) Annual expense allowance and benefits shall be determined by the City's budget in accordance with benefits and expenditure reimbursement provisions adopted by Ordinance.

- (c) Any ordinance which changes the compensation of City Commissioners will not take effect until the next general City election. (** area of discussion**) formula for increases based on population...??

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SECTION 5.06 – ORGANIZATIONAL STRUCTURE

- (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 of voters:

1. City Manager
2. Police Department
3. Fire Rescue District
4. Department of Finance
5. Road and Drainage District (** area of discussion**)

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- (b) The following charter offices shall not be subject to abolishment by the City Commission:

1. City Clerk
2. City Attorney

SECTION 5.07 – ADVISORY BOARDS AND COMMITTEES (** leave in or take out**)

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- (a) The City Commission may appoint advisory boards and committees composed of citizens qualified to act in an advisory capacity to the City Commission, City Manager, or to any department of the City government regarding the conduct and management of any property or institution or the exercise of any public function of the City. Members of any such board or committee shall serve without compensation for the time fixed in their appointment or at the pleasure of the City Commission. Their duties shall be to seek the public's input and advise with municipal officers in order to make written recommendation to the City Commission on their appointed area of concentration.

- (b) The City Commission shall always maintain the following Advisory Boards:

1. Charter Review Advisory Board
2. Planning and Zoning Advisory Board

ARTICLE VI – MEETINGS OF THE CITY COMMISSION

SECTION 6.01 – MEETINGS

- (a) 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. All meetings shall be public except as provided by state law. At all meetings, the public shall have the right to be heard as provided by Constitution, State law, and City Code. (NOTE: last sentence is per referendum of voters 11-2-04, so wording should be checked to conform to that vote).
- (b) If the City Commission meets more than once in any month, then at least one meeting shall be scheduled to begin after 5pm.

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SECTION 6.02 – RULES

- (a) The City Commission shall determine its own rules and order of business. The Commission shall be guided by parliamentary procedures.
- (b) The Chief of Police, or 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.

SECTION 6.03 – QUORUM AND VOTING REQUIREMENTS

- (a) 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 manner and under such penalties as may be prescribed by ordinance. (???)
- (b) A majority vote of a quorum of the City Commissioner present at a meeting is required for the enactment of ordinances, resolutions, and contractual commitments unless otherwise specified in this Charter, ordinance, or general law.
- (c) Voting on ordinances shall be by roll call and shall be recorded in the journal.

ARTICLE VII – LEGISLATIVE ENACTMENTS

SECTION 7.01- ORDINANCES AND RESOLUTIONS

- (a) Procedures for adoption of ordinances and resolutions shall be as provided in Florida Statutes Section 166.041, as may be amended from time to time.
- (b) When more than one hearing on a legislative enactment is required, at least one of the hearings must be held after 5pm.
- (c) "Ordinance" means an official legislative action of the City Commission, which action is a general regulation of a general and permanent nature and enforceable as a local law.
- (d) "Resolution" means an expression of the City Commission concerning matters of administration, an expression of temporary character, or a provision for the disposition of a particular item of the administrative business of the Commission.
- (e) Each ordinance that is adopted by the City Commission shall be authenticated by the Mayor, the City Attorney, the City Clerk, and shall bear the seal of the City.

SECTION 7.02- EMERGENCY ORDINANCE

- (a) Pursuant to Florida Statutes Section 166.041(3)(b), as may be amended from time to time, an emergency ordinance may be enacted by vote of four (4) members of the City Commission when it is deemed necessary for the public health, safety and welfare of the city.
- (b) 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 City Manager's designee may grant the initial and temporary procurement of goods and services. At the next regularly scheduled City Commission meeting, the Commission shall consider ratification of the City Manager's actions.

SECTION 7.03 – ANNEXATION ORDINANCE

The City Commission may annex any lands into the City by ordinance, provided all requirements and administrative procedures are followed as per general law.

SECTION 7.04 – CITIZEN INITIATIVE(S)

Citizens shall have the power to propose ordinances to the City Commission, to request reconsideration of adopted ordinances, or to advocate removal of any charter officer by a petition signed by at least five percent (5%) of the qualified registered voters of the City. Upon receipt of such petition the City Commission shall place the item on the agenda of the next regularly scheduled City Commission meeting for discussion and action. (**area of discussion**)

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SECTION 7.05 – CODIFICATION

Immediately after adoption of this revised Charter, and then at least quarterly thereafter, the Commission shall provide for the preparation of general codification of all City ordinances. (who? how?)

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ARTICLE VIII – CHARTER AMENDMENTS

SECTION 8.01- AMENDMENT WITHOUT REFERENDUM OF VOTERS

The City Commission shall, by ordinance, amend any part of the Charter when such part is preempted by general or special laws, has been judicially construed to be contrary by either State or Federal court or the general or special laws of the State, or when, as a result of annexation or de-annexation the corporate boundaries of the City change. Upon passage of such ordinance, the City Commission shall have the amendment incorporated into the Charter and file same with the Florida Department of State.

SECTION 8.02 – AMENDMENTS SUBMITTED TO VOTERS

- (a) The City Commission may, by ordinance, submit a proposed amendment to the Charter.
- (b) Voters of the City may, by a petition signed by ten percent (10%) of the registered voters, submit a proposed amendment to the Charter. (**10% is required by FS 166.031**)
- (c) The Charter Review Advisory Board may recommend proposed amendment(s) to the City Commission.
- (d) The City Commission shall subject the proposed amendment(s) or petitions(s) to referendum at the next general election or at a special election called for that purpose.
- (e) Amendments to the Charter shall be effective immediately after approval by the voters.
- (f) Upon passage of an amendment by a majority vote of the City's voters who voted in the referendum, the City Commission, by ordinance, shall have the amendment(s) incorporated into the Charter and shall file same with the Florida Department of State.

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ARTICLE IX – CITY MANAGER

SECTION 9.01 – APPOINTMENT AND QUALIFICATIONS

The City Commission shall appoint a City Manager by majority vote. The City Manager shall be appointed on the basis of the City Manager's executive and administrative qualifications without regard for the political affiliations of the individual. It shall not be required for the City Manager to be a resident of the City at the time of appointment; however, the City Manager shall be required to establish residency in the City within one (1) year from the appointment date.

- (a) If the City Manager relocates outside the City but within Sarasota County due to a declared emergency or loss of residence due to emergency circumstances, the City Manager will be given

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(13)

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(14)

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- (c) The Charter Review Advisory Board may recommend proposed amendment(s) to the City Commission.
- (d) The City Commission shall subject the proposed amendment(s) or petitions(s) to referendum at the next general election or at a special election called for that purpose.
- (e) Amendments to the Charter shall be effective immediately after approval by the voters.
- (f) Upon passage of an amendment by a majority vote of the City's voters who voted in the referendum, the City Commission, by ordinance, shall have the amendment(s) incorporated into the Charter and shall file same with the Florida Department of State.

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- (a) If the City Manager relocates outside the City but within Sarasota County due to a declared emergency or loss of residence due to emergency circumstances, the City Manager will be given six (6) months to re-establish residency within the City. If the City Manager is unable to re-establish City residency within the initial six (6) month period for good cause, the City Manager may be granted a one-time extension of an additional six (6) months by a majority vote of the City Commission. If the City Manager is unable or unwilling to re-establish City residency within

(16a)

six (6) months to re-establish residency within the City. If the City Manager is unable to re-establish City residency within the initial six (6) month period for good cause, the City Manager may be granted a one-time extension of an additional six (6) months by a majority vote of the City Commission. If the City Manager is unable or unwilling to re-establish City residency within the provided deadline, then the office of City Manager shall be declared vacant. At no time may the City Manager relocate outside of Sarasota County without the office being declared vacant.

SECTION 9.02 – COMPENSATION

The City Commission shall determine the compensation of the City Manager by contract.

SECTION 9.03 – REMOVAL

The City Manager shall be removed from office for good cause by majority vote of the City Commission or by mutual consent of both parties.

(**area of discussion**) severance upon removal...?? Same criteria should apply to all charter officers.

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SECTION 9.04 – VACANCY

- (a) A vacancy shall be created immediately upon the submission of a letter of resignation, when the City Manager fails to meet the residency requirement, dies, or is removed from office in any manner authorized by law.
- (b) In the event of a vacancy in the Office of City Manager for any reason whatsoever, the City Commission shall designate and appoint a properly qualified person to execute the functions of the office until such time as a new City Manager is forthwith appointed by majority vote of the City Commission.

SECTION 9.05 – 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 the City Manager's authority under this Charter. City Manager shall:

- (a) Supervise all governmental and proprietary functions of the City and all departments.
- (b) Employ or remove any employee(s) of the City, subject to the provisions of this Charter, and all ordinances and personnel rules of the State and Federal government. Charter Officers appointed by the City Commission, employees of the Legal Department, and employees of the City Clerk's department shall not be subject to employment or removal by the City Manager. (**area of discussion**)
- (c) Promulgate such rules and regulations and amendments thereto for appointment, promotion, discipline and removal of employee(s) of the City subject to State, Federal, and local laws governing employment, 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 the City Manager's duly designated representative with a voice with but not a vote in the proceedings.
- (f) At the first regularly scheduled meeting each month of the City Commission, submit a summary report of receipts and disbursements.

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- (g) Prepare and submit the annual budget and capital improvement budget to the City Commission; 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 of the finances and administrative activities of the City as of the end of each fiscal year; **(***area of discussion***)** make such other reports as the City Commission may require concerning budget and operations; keep the City Commission fully advised as to financial conditions and future needs of the City. (19)
- (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 officer 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 is required, the costs of the bonding shall be paid by the City.
- (m) Sign all contracts, agreements, and applications for the City after such has been approved by the City Commission at a regular or special City Commission meeting.

ARTICLE X – CITY CLERK

SECTION 10.01 – APPOINTMENT AND QUALIFICATIONS

The City Commission shall appoint the City Clerk by majority vote. The City Clerk shall be appointed on the basis of executive and administrative qualifications without regard to political affiliations of the individual. It shall not be required for the City Clerk to be a resident of the City at the time of appointment; however, the City Clerk shall be required to establish residency in the City within one (1) year of the appointment date.

- (a) If the City Clerk relocates out of the City but within Sarasota County due to a declared emergency or loss of residence due to emergency circumstances, the City Clerk will be given six (6) months to re-establish City residency. If the City Clerk is unable to re-establish City residency after the initial six (6) month period due to good cause, the City Clerk may be granted a one-time extension for an additional six (6) months by majority vote of the City Commission. If the City Clerk is unable or unwilling to re-establish City residency after the deadline, the office of City Clerk will be declared vacant. At no time may the City Clerk relocate outside of Sarasota County without the office being declared vacant. (16b)

SECTION 10.02 – COMPENSATION

The City Commission shall determine the compensation of the City Clerk by contract.

SECTION 10.03 – REMOVAL

The City Clerk shall be removed from office for good cause by majority vote of the City Commission or by mutual consent of both parties. **(***area of discussion***)** see 9.03. (17b)

SECTION 10.04 – VACANCY

- (a) A vacancy shall be created upon submission of a letter of resignation, when the City Clerk fails to meet the residency requirement, dies, or is removed from office in any manner authorized by law.
- (b) In the event of a vacancy of the office of City Clerk for any reason whatsoever, City Commission shall designate and appoint a properly qualified person to execute the functions of the office until such time as a new City Clerk is forthwith appointed by majority vote of the City Commission. (**area of discussion**)

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SECTION 10.05 – POWERS AND DUTIES

The City Clerk shall be the head of the Department of Records. City Clerk shall be the custodian of all official records of the City and custodian of the official City Seal. City Clerk shall be responsible to the City Commission for the proper administration of all affairs concerning the records of the City placed in the City Clerk's charge under this Charter and as may be promulgated by ordinance or resolution. The City Clerk shall:

- (a) Make recommendation to the City Commission concerning the records and proprietary functions of the City.
- (b) Attend all meetings of the City Commission, either in person, or by City Clerk's duly designated representative, and keep a journal of its proceedings. The correctness of said proceedings as entered in the journal kept by City Clerk shall be certified to after each meeting by the City Clerk's signature (or duly designated representative) and the signature of the presiding officer of the City Commission. Said journal shall be a public record and any person shall have access to the journal at all reasonable times as prescribed by law.
- (c) Give notice of all meetings to the City Commission and to the public, as required by ordinance or State law.
- (d) Serve as the election official for the City.
- (e) Authenticate documents of the City.
- (f) Attest all written contracts and instruments on behalf of the City.
- (g) 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, subject to State laws or local ordinance.
- (h) Administer oaths required or authorized under general law, the City Charter, or City ordinance.
- (i) Countersign warrants for payment of obligations.
- (j) Keep on file the legal descriptions of the boundaries of the City, as amended.
- (k) Perform such other duties as may be prescribed by general law, by City Charter, by ordinance of the City, or by direction of the City Commission as a whole.

ARTICLE XI – CITY ATTORNEY

Section 11.01 – APPOINTMENT AND QUALIFICATIONS

The City Commission shall appoint a City Attorney by majority vote. The City Attorney shall be a lawyer admitted to practice in the State of Florida. Appointment of the City Attorney shall be based on legal service qualifications of the individual without regard to the political affiliations of that person. It

shall not be required for the City Attorney to be a resident of the City at the time of appointment; however, the City Attorney shall be required to establish residency within one (1) year from the appointment date.

- (a) If the City Attorney relocates outside the City but within Sarasota County, due to a declared emergency or loss of residence due to emergency circumstances, the City Attorney will be given six (6) months to re-establish City residency. If the City Attorney is unable to re-establish City residency for good cause after the initial six (6) month period, the City Attorney may be granted a one-time extension of an additional six (6) months by a majority vote of the City Commission. If the City Attorney is unable or unwilling to re-establish City residency after the deadlines provided, the office of City Attorney will be declared vacant. At no time may the City Attorney relocate outside of Sarasota County without the office of City Attorney being declared vacant.

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SECTION 11.02 – COMPENSATION

The City Commission shall determine the compensation of the City Attorney by contract.

SECTION 11.03 – REMOVAL

The City Attorney shall be removed from office for good cause by majority vote of the City Commission or by mutual consent of both parties. (**area of discussion**) See 9.03.

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SECTION 11.04 – VACANCY

- (a) A vacancy shall be created immediately upon submission of a letter of resignation, when the City Attorney fails to meet the residency requirement, dies, or is removed from office in any manner authorized by law.
- (b) In the event of a vacancy in the office of City Attorney for any reason whatsoever, City Commission shall designate and appoint a qualified person to execute the functions of the office until such time as a new City Attorney is forthwith appointed by majority vote of the City Commission.

SECTION 11.05 – POWERS AND DUTIES

The City Attorney shall be the legal advisor and legal counselor for the City Commission, City Manager, City Clerk, all City departments, and City Advisory boards and committees. City Attorney shall:

- (a) Attend all meetings of the City Commission and City boards and advisory committees either in person, or by a duly qualified and designated representative to supply legal advice and legal information as may be needed or requested during a meeting.
- (b) Prepare or review all contracts, bonds, and all other legal and official instruments in which the City is concerned. The City Attorney's endorsement as to approval of the form and correctness on all such documents is required prior to the City Commission or advisory board or committee's review of said document(s).
- (c) No formal contract or legal document of the City shall take effect until the City Attorney's legal opinion thereon has been provided.
- (d) Prosecute and defend on behalf of the City all complaints, suits, and controversies in which the City is a party except in cases where the City's defense is provided either by contract or law by a third party.

- (e) Act as legal advisor for the Code Enforcement process. (**area of discussion**) (21)
- (f) Advise the City Commission and its members as to their compliance or non-compliance with the provisions of this Charter and all State laws and statutes.
- (g) Upon request, furnish the City Commission and its members, City advisory boards and committees, City Manager, City Clerk and any department head with the City Attorney's legal opinion on any question of law relating to official city business actions. (**area of discussion**) (22)
- (h) Perform such other duties as are required of City Attorneys under the general laws of the State of Florida, or as may be assigned by the City Commission.

ARTICLE XII – DEPUTY CHARTER OFFICERS

(**area of discussion**) Do you want deputy charter officers? If yes, do they assume duties of charter officer upon absence or vacancy? Or do you prefer assistants to the charter officers? Seems all 3 charter officer positions should be treated consistently. (23)

ARTICLE XII – SUITS AGAINST THE CITY OR CITY OFFICIAL(S)

- (a) The provisions of Florida Statutes Section 768, as amended from time to time, shall be applied to any suit against the City.
- (b) Any suit against a City official brought about as a result of that official acting within the scope of the City Official's proper authority shall be indemnified by the City pursuant to Florida Statutes Section 111.07, as amended.

ARTICLE XIV- SEVERABILITY CLAUSE

Should any part, section, 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 the Charter shall not be affected.

