



**AGENDA
CHARTER REVIEW COMMITTEE
REGULAR MEETING
OCTOBER 1, 2019
3:00 PM
CITY COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
 - 5.1 Choose Chair and Vice Chair
 - 5.2 Set Meeting Dates
 - 5.3 Review of Sunshine Law & Public Records
 - 5.4 Introduction to the Charter Review Process
 - 5.5 Introduction to the City of Fernandina Beach Charter
- 6. PUBLIC COMMENT**
- 7. NEXT MEETING DATE**
- 8. ADJOURNMENT**

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired). All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the City Attorney.

City of Fernandina Beach Sunshine Law & Ethics Training

Tammi E. Bach
City Attorney



Overview

Sunshine Law

Open Meetings

Public Records

Quasi-Judicial
Procedures

Ethics Law

Voting Conflicts

Gifts/Honoraria

Misuse of Public
Position



Training Requirements

Section 112.3142, F.S. : All elected municipal officers must complete 4 hours of ethics training each calendar year, to address, at a minimum:

S. 8, Art. II of the State Constitution;
the Code of Ethics for Public Officers and Employees; and
the public records and public meetings laws of the state.



What is the “Sunshine Law”?

- Florida’s “Government in the Sunshine Law” provides a right of access to governmental proceedings.
- It is constitutionally guaranteed in Article I, Section 24 of the Florida Constitution.



Open Meetings Requirements: Florida Statute 286.011

- Meetings of public boards, councils, and commissions must be open to the public;
- Reasonable notice of such meetings must be given; and
- Minutes of the meetings must be taken



Open Meetings Requirement

Unless the three requirements are met, two or more members of the same board, council, or commission may not discuss any matter on which foreseeable action will be taken by that board, council, or commission.



Who is covered under the Sunshine Law?

- Councils, boards, and commissions of state agencies, counties, municipal corporations and political subdivisions
- Elected or appointed councils, boards, or commissions.
- Private companies doing business on behalf of a government agency.
- One person acting on behalf of a board or commission.



Does the Open Meetings Law apply to members-elect?

Yes, members-elect of public councils, boards, and commissions are covered by the Sunshine Law immediately upon their election to public office.



Can two members of the same public board socialize?

Yes, but they may not discuss matters which may come before their council, board, or commission. Be careful to avoid the appearance of impropriety.



Open Meetings Sanctions

- An unintentional violation: non-criminal infraction punishable by a fine up to \$500.00
- A knowing violation: 2nd degree misdemeanor punishable by a fine of not more than \$500.00 and/or a jail term of not more than 60 days.
- Suspension or removal from office
- Attorneys' fees and court costs



Florida Public Records Law

Florida's Constitution guarantees the access to Government Records in Article I, Section 24(a).



What is a public record?

The Florida Supreme Court has determined that public records are all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.

They are NOT limited to traditional written documents: tapes, photographs, films, emails, and sound recordings are all considered public records subject to inspection unless a statutory exemption exists.



Guidelines for Emails

- An email sent to or from a work or home computer is a public record if it is prepared or received in connection with official City business and if there is no exemption from the Public Record law.
- The Florida Supreme Court has ruled that private email does not automatically become a public record just because it is stored in a government computer. To be considered a public record, such email must meet the definition. However, there is no expectation of privacy for the communications you make on a government-owned computer.



What about text messages and social media?

City-related Facebook entries, tweets, Instagram posts, etc. are public records.

Official City business should not be communicated via text message; however, voicemail messages, texts, and cellular phone messages created in the course of conducting City business are considered public record and subject to public review.



Are my notes public records?

Notes and non-final drafts that formalize knowledge or communicate official business are public records.
Personal notes to help jog a memory are not.







RESOLUTION 2019-130

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA ESTABLISHING AN AD HOC CHARTER REVIEW COMMITTEE TO REVIEW THE EXISTING CHARTER OF THE CITY, AND RECOMMEND CHANGES TO THE CITY COMMISSION, PROVIDING FOR GOALS, WORK PLAN, ORGANIZATION, CONDUCT OF BUSINESS AND STAFF SUPPORT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission finds that the current City Charter has not been reviewed since 2007, and the City Charter is in need of review and updating periodically; and

WHEREAS, the City Commission believes it to be in the best interest of the City to create an ad hoc Committee to review the existing City Charter, and recommend changes to make the Charter more effective and up to date; and

WHEREAS, the City Commission is committed to having representation from citizens, as well as input from legal and municipal management professionals to review the Charter and recommend changes in the best interest of the City and its citizens; and

WHEREAS, the City staff will actively participate in, and support the goals of, the ad hoc Charter Review Committee, and professional services may be obtained as needed by the Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The Charter Review Committee (Committee) is officially designated as an ad hoc advisory board to the City Commission, and is responsible for adhering to the following:

a. Goal and Charge to the Charter Review Committee.

The goal and charge to the Committee is to review the existing City Charter, analyze how the Charter addresses the needs of the City, and propose appropriate changes to remove obsolete or out of date provisions, practices, or policies contained in the Charter. The review must consist of a full review of the Charter, including wording changes and updating sections to reflect modern local government management practices.

b. Work Plan.

The Committee must establish a work plan that has measurable results. The work plan may consist of review of the existing Charter, input from professionals, discussion and recommendations for changes, and final report. The final report must be presented to the City Commission by the completion date listed in subsection (g) below.

c. Organization; Quorum; Officers.

The Committee is comprised of seven regular members who serve without compensation. The Committee must elect from its membership a Chairperson, Vice-Chairperson and Recording Secretary. In the absence or disability of the Chairperson, the Vice-Chairperson must perform the duties of the

Chairperson. The Committee must meet at a regularly set date, time and location established by the Committee. The Committee is subject to the public meeting laws and the public records laws.

d. Appointment of Members

The Mayor and each City Commissioner must appoint one member of the Committee, and the City Manager and City Clerk must each appoint one member of the Committee for a total of seven members.

e. Assistance from Professionals

The Committee may request input from professionals in the area of local government law, municipal management, or other areas as it determines are necessary. The Committee must coordinate its request for professional assistance through the City Attorney's office. The City Attorney or her designee must be present at all regular meetings of the Committee for professional legal support.

f. Staff Assistance

The City Clerk, City Manager and City Attorney shall provide the necessary staff support to the Committee for preparation of agendas.

g. Completion of Committee's Assigned Goal

The Committee must complete its review and recommendations no later than June 30, 2020.

SECTION 2. This Resolution becomes effective immediately upon its final passage.

ADOPTED this 6th day of August, 2019.

ATTEST:

CITY OF FERNANDINA BEACH



Caroline Best
City Clerk



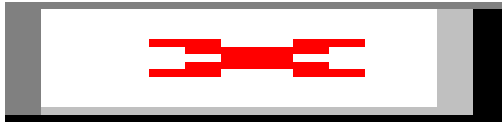
John A. Miller
Commissioner- Mayor

APPROVED AS TO FORM AND LEGALITY:



Tammi E. Bach
City Attorney

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Ashley Moody, Attorney General of Florida

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Advisory Legal Opinion - AGO 2003-36

[Print Version](#)

Number: AGO 2003-36

Date: July 31, 2003

Subject: Municipal charter, amendment

Mr. Richard Kane

Attorney for Hallendale Beach Charter Review Committee

400 South Federal Highway

Hallendale Beach, Florida 33009-6433

RE: MUNICIPALITIES-CHARTER-amendment of post 1973 charter must be in accordance with s. 166.031. ss. 166.021(4), 166.031, Fla. Stat.

Dear Mr. Kane:

On behalf of the Charter Review Committee of the City of Hallendale Beach, you ask substantially the following question:

May the Charter of the City of Hallendale Beach, which was adopted in 1976, be amended to provide that future amendments to the charter may be made by the city commission without referendum with the exception of certain provisions that could be amended only as provided in section 166.031, Florida Statutes?

You state that the Charter Review Committee of the City of Hallendale Beach is presently conducting a study and review of the municipal charter, which was adopted in 1976. One of the subjects of review is the possibility of amending the charter by ordinance to avoid the expense of a referendum. The committee is considering amending the charter to provide that the charter may be amended by ordinance except for those areas enumerated in section 166.021(4), Florida Statutes, or by specifically stating that the charter may be amended by ordinance except with respect to the exercise

of extraterritorial powers, the existence or creation of the municipality, the terms of elected officers or manner of their election, the distribution of powers of elected officials, changes in the form of government or boards provided in the charter, and the rights of municipal employees, which could only be amended as provided in section 166.031, Florida Statutes.

Article VIII, section 2(a), Florida Constitution, provides that municipal charters may be amended pursuant to general or special law. The Florida Legislature, with the 1973 adoption of the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, granted municipalities broad home rule powers. In order to implement such a grant, section 166.021(4) and (5), Florida Statutes, repealed or converted into ordinances many of the provisions of municipal charters in existence at that time. Section 166.021(4), Florida Statutes, however, provides that nothing in Chapter 166, Florida Statutes, is to be construed as permitting any changes in a special law or municipal charter that affect:

"the exercise of extraterritorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031."

Thus, municipal charter provisions adopted prior to 1973 that do not affect the above enumerated areas were either repealed or converted into ordinances and are subject to modification or repeal as are other ordinances.

Charters or charter provisions adopted or readopted subsequent to the adoption of the Municipal Home Rule Powers Act in 1973, however, may only be amended as provided in section 166.031, Florida Statutes. That section provides in subsection (1):

"The governing body of a municipality may, by ordinance, or

the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. *The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.*" (e.s.)

If the proposed amendment receives the favorable vote of a majority of the municipal electors voting in the referendum, the governing body is required to incorporate the amendment into the charter and file a copy of the revised charter with the Department of State, at which time the revised charter shall become effective.[1]

As a general principle, concurrent legislation enacted by a municipality may not conflict with state law; if such conflict arises, state law will prevail.[2] Moreover, a municipality cannot forbid that which the Legislature has authorized or required, nor may it authorize that which the Legislature has forbidden.[3]

Section 166.031, Florida Statutes, sets forth the procedures to be observed in amending municipal charters, including a requirement that a proposed amendment shall be subject to approval by referendum of the voters. Thus, this office has previously stated that a municipal charter provision adopted or readopted after the creation of the Municipal Home Rule Powers Act in 1973 must be amended in accordance with section 166.031, Florida Statutes. For example, in Attorney General Opinion 75-223 this office specifically advised the City of Tamarac that its charter, readopted after 1973, could not be amended except as provided in section 166.031. Similarly, in Attorney General Opinion 79-80 this office stated that the Lake Wales City Commission could not unilaterally amend its municipal charter but could only propose an amendment that would be submitted to the municipal electors for their approval at a referendum held for that purpose. More recently, in Attorney General Opinion 97-53 this office concluded that a city commission could not delegate its canvassing board duties to a consolidated municipal canvassing board, absent an existing charter provision authorizing such a transfer

or an amendment to the city's charter approved in a referendum by the city's electorate.[4]

Moreover, this office has consistently stated that the charter amendment provisions in section 166.031, Florida Statutes, prevail over conflicting provisions in a municipal charter.[5] Section 166.031(3), Florida Statutes, itself provides that a municipality may amend its charter as described above, even if the charter itself provides otherwise.

While the Legislature has enacted certain exceptions to the referendum requirements of section 166.031, Florida Statutes,[6] nothing in the act provides a general exception to the referendum requirement for any charter amendment except those enumerated in section 166.021(4), Florida Statutes. As noted above, section 166.021(4) sought to ensure that the amendment of pre-home rule charters, which were otherwise repealed or converted into ordinances by the home rule powers act, would be required to comply with the new procedures for amending a charter set forth in section 166.031 for those areas enumerated.

Accordingly, I am of the opinion that the Charter of the City of Hallendale Beach, which was adopted in 1976, may not be amended to provide that future amendments to the charter may be made by the city commission without referendum with the exception of certain provisions; rather the city charter must be amended in accordance with the provisions of section 166.031, Florida Statutes.

Sincerely,

Charlie Crist
Attorney General

CC/tjw

[1] Section 166.031(2), Fla. Stat.

[2] See, e.g., *City of Miami Beach v. Rocio Corp.*, 404 So. 2d 1066 (Fla. 3d DCA 1981), pet. for rev. den., 408 So. 2d 1092 (Fla. 1981); *Board of Trustees of City of Dunedin Municipal Firefighters Retirement System v. Dulje*, 453 So. 2d 177, 178 (Fla. 2d DCA 1984).

[3] *See, e.g., Rinzler v. Carson*, 262 So. 2d 661, 668 (Fla. 1972); *City of Hialeah v. Martinez*, 402 So. 2d 602 (Fla. 3d DCA 1981), *pet. for rev. dismissed*, 411 So. 2d 380 (Fla. 1981) (municipal charter cannot make unlawful that which the Legislature has made lawful). *And see Alsop v. Pierce*, 19 So. 2d 799, 805-806 (Fla. 1944) (a legislative direction as to how a thing shall be done is, in effect, a prohibition against its being done in any other way); *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976).

[4] *And see* Op. Att'y Gen. Fla. 01-15 (2001) (city commission may amend its city charter, adopted in 1977, to remove a requirement that the city manager reside within the city only if such amendment is approved by referendum of the qualified electors of the municipality).

[5] *See* Op. Att'y Gen. Fla. 88-30 (1988).

[6] *See, e.g., s. 166.031(3), Fla. Stat.*, stating that "[a] municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2)"; and *s. 166.031(5), Fla. Stat.*, which permits a municipality, by unanimous vote of the governing body, to abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which have been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the Florida Constitution or the Federal Constitution.

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Section 1-2

Municipal Government and the State

A. THE ENGLISH BACKGROUND

The origins of American municipal government lie in English history. As England emerged from the non-urbanized medieval period and began to develop urban centers, citizens with vested interests in the development of their communities as trade centers sought authority from the Crown to exercise some control over local affairs. The king (or queen) would respond to these requests by granting "charters" to these groups, whereby they were empowered to promote local improvements and to regulate certain aspects of community life. The charter was viewed as a grant only of those powers which were specifically and explicitly granted therein; in other words, the grant of authority was narrowly defined and strictly limited. Eventually, these chartered groups came to be recognized as "municipal corporations," similar to private, commercial corporations, which also were authorized by the Crown. At first, such grants of authority were given only to narrowly defined groups, usually the leading businessmen of the community. Over time, as democratic institutions developed, control of charters shifted from such narrow groups to the general population of the community, complete with the democratic election of leaders to exercise the granted powers.

This pattern for the formation of English municipal governments was extended to the American colonies. In America, municipal charters were granted by the Crown to a handful of urban centers. When the Revolution transformed the colonies into states, the state governments assumed the role of the Crown as the source of municipal- government authority; that is the state governments assumed the role of granting municipal charters. From this practice evolved the traditional American legal principle that a municipality is a creature of the state, may exist only with the consent of the state, derives its powers from the state, and enjoys only those powers which are granted it by the state, through the state constitution and actions of the state legislature.

B. EARLY FLORIDA HISTORY

In the Spanish era of Florida history, the two principal communities were Pensacola and St. Augustine. Each enjoyed a municipal government under Spanish rule, it appears; in any event, Provisional Gov. Andrew Jackson specifically recognized the cities of Pensacola and St. Augustine as existing governmental entities only four days after formally receiving possession of Florida for the United States in 1821. In Florida's territorial period, 1821-1838, the territorial legislative council granted municipal charters for other population centers – Apalachicola, Key West, Ocheese (which no longer exists), and perhaps others.

After Florida became a state in 1845, municipal government was treated in a manner common to other states. The Legislature was the source of authority, granting municipal charters and specifying the powers of each municipal government through its charter. In addition, the Legislature often affected local governments through the enactment of "general acts" and "local or special acts." With reference to municipalities, a "general" act is a legislative act which applies uniformly to all municipalities and prescribes their jurisdictions and powers. The Legislature's control over municipal governments was absolute. Municipalities were regarded as creatures of the state, without inherent powers. Constitutional language specifically permitted the Legislature to utilize local acts in regulating municipal courts as

well as the jurisdiction and duties of municipal officers. Special and local acts dealing with municipalities were permitted, with no requirement that notice of such legislation be published in the affected community. In short, the Legislature was free to control municipal affairs by means of local acts. A 1934 constitutional amendment prohibited local acts, but it was ignored by the Legislature in following years.

One feature of the 1885 Florida Constitution, as it came to be amended, was that a special or local act required either that notice be published in the affected community or that the change caused by the act be approved by referendum in the affected community. Due to this requirement of local acts, the Legislature began using “general acts of local application” rather than local acts. General acts of local application have been described by the Florida Supreme Court as “relating to subdivisions of the State or to subjects or to persons or things as a class based upon proper distinctions and differences that inhere in or are peculiar or appropriate to the class.” As applied to legislation affecting municipalities, the practice has been to use population as the basis for determining the “class” to which any legislation applied and to define the population range so narrowly that the legislation actually applied to only a single municipality. By utilizing such legislation (sometimes called “population acts”), the Legislature avoided the notification-or-referendum requirement which applied to local acts.

To summarize, under the 1885 Florida Constitution, municipal governments were completely controlled by the state Legislature, which enjoyed not only the power of enacting legislation which applied to municipalities, but also the power to affect selected municipalities through the enactment of local acts and general acts of local application.

During this period, in the absence of any grant of municipal “home rule,” municipal governments’ authority was limited to that expressly granted by the Legislature or that which could be necessarily implied from an express grant, and any reasonable doubt regarding a municipality’s right to exercise a power was to be resolved (by a court) against the municipality. This statement of municipal authority was widely known as “Dillon’s Rule” and prevailed generally throughout the United States, in the absence of grants of municipal home-rule powers.

C. THE CURRENT ERA: MUNICIPAL HOME RULE

In 1968, the people of Florida approved a new state constitution, which became the 1969 Florida Constitution. In it, a dramatic break was made with past treatment of municipal government. The new approach to municipal government is commonly referred to as “municipal home rule,” and it is the prevailing state policy in many American states today.

1. Constitutional Provision for Home Rule

The home-rule provisions are found in Article VIII, Section 2(b), of the 1969 Florida Constitution:

Municipalities 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...

The crucial part of the passage is “and may exercise any power for municipal purposes except as otherwise provided by law.” Previously, a municipal government could exercise **only** (a) those powers granted to all municipalities through general law and (b) any additional powers which may have been granted to that particular municipal government by the Legislature.

Under the new constitutional language, a municipal government may exercise any power which is not prohibited by law, so long as its exercise is for a valid “municipal purpose.” Before 1969, a municipality could do only those things which it was **clearly authorized** to do (and, in keeping with Dillon’s Rule, any doubts were to be resolved against the municipality); after 1969, a municipality may do **anything**

which it is **not prohibited** from doing. Such is the essence of the constitutional doctrine under which Florida's municipalities have operated since 1969.

2. Statutory Home-Rule Provisions

The 1969 Legislature promptly enacted Chapter 69-33, Laws of Florida, which repeated the constitutional home-rule provision, with the most significant change of wording being that the clause "except as otherwise provided by law" was replaced by "except when prohibited by general or special law." Ch. 69-33 also contained an expression of legislative intent which appeared to strengthen the home-rule cause.

For a few years, the extent of municipal home-rule authority was left unclear. Then, in 1972, the state supreme court rendered an opinion which stripped the constitutional home-rule provision of all effect. In response, the 1973 Legislature enacted Chapter 73-129, Laws of Florida, the Municipal Home Rule Powers Act, which was codified as ch. 166, F.S. This act clearly was intended to **strengthen** the constitutional grant of home-rule power. It restates the language of Article VIII, Section 2(b), Florida Constitution, using identical language except for the last clause, where "except as otherwise provided by law" is replaced with "except when expressly prohibited by law." With this change, the 1973 Legislature made it clear that the authority of municipal governments to "exercise any power for municipal purposes" is to be abridged **only** when "expressly prohibited" by state law. The 1973 Legislature also defined "municipal purposes" as identical with those purposes for which the state itself might act – "municipal purpose" means any activity or power which may be exercised by the state or its political subdivisions."

The Municipal Home Rule Powers Act of 1973 was explicitly upheld by the Florida Supreme Court in 1975. In decisions since 1973, the Supreme Court has consistently respected the home-rule principle. Consequently, Florida's municipal governments today enjoy "home rule." The Legislature is ultimately supreme, still, in that it may restrict the powers of municipal self-government by erecting specific prohibitions. Absent such prohibitions, however, municipal officials may exercise any power, so long as it be for a municipal purpose.

The Florida League of Cities played a critically important and pivotal role in the development and adoption of the constitutional home-rule provision, the 1969 home-rule act, and the Municipal Home Rule Powers Act of 1973. Municipal Home Rule stands as the League's crowning achievement, one which serves as the foundation of effective municipal self-government in Florida today.

3. Restrictions on Legislative Acts

In addition to providing for municipal Home Rule, the authors of the 1969 Florida Constitution also sought to restrict legislative use of local acts and general acts of local application. This effort is reflected in Article III, Sections 10 and 11, Const. Section 10 requires that all special laws (including local acts) be accompanied either by local notification or by provision for local referendum. Section 11 prohibits special laws and general laws of local application on certain subjects, some of which are significant to municipal governments; however, specifically exempted from such prohibitions are "election, jurisdiction or duties" of municipal officers. Section 11 also permits the state Legislature to add to the list of prohibited subjects and specifies that the basis of classification in general laws must be related to the subject matter of the law. The provisions of Sections 10 and 11, in the words of one legal commentator, "represent a significant narrowing of the scope of permissible general laws of local application and their most abused sub-type, population acts. Taken in conjunction with the new home-rule provisions, they fit into an over-all design to take local decisions out of the Legislature..."

The 1971 Legislature took additional action regarding population acts by enacting Chapter 71-29, Laws, which repealed almost all existing population acts – some 2,139 acts in all. Repealed acts relating

to municipalities were declared to be ordinances of the affected municipalities. Today, the Legislature is still constitutionally authorized to enact general laws of local application, as well as special legislation (which includes local acts). The Legislature does not use these methods with the frequency with which they once were used; however, they are still used, as is illustrated by Chapter 87-258, Laws, which authorized the levying of a convention-development tax. The act reads, in part, as follows:

Each county which was chartered under Art. VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax...may impose...a levy outside the boundaries of such special taxing district **and to the southeast of State Road 415 on...** transient rent accommodations... (emphasis added).

4. No Home-Rule Power re: Taxation

One very large exception to municipal Home Rule must be noted. Municipal Home Rule does **not** apply to general taxing authority. All taxing authority is retained by the state, with municipalities having only those taxing authorities specifically and explicitly granted by general law. (Refer to Chapter 7, "Municipal Finance," for further information.) In 1998, Florida voters made several changes and additions to the 1969 Constitution.

The Cabinet was reduced in size, strengthening the executive branch, but none of the amendments had a direct impact upon municipal governments.

REFERENCES

Florida Constitution: Article III, Sections 10-11, and Article VIII, Section 2. Florida Statutes: Chapter 166. Laws of Florida: Chapters 69-33, 71-29, 73-129 (the Municipal Home Rule Powers Act), and 87-258. Steven L. Sparkman, "The History and Status of Local Government Powers in Florida," *University of Florida Law Review*, 25, 271-307; Louis C. Deal, "Post Mortem – Home Rule," *Florida Municipal Record*, 54, 6, 2ff; Ralph Marsicano, "Development of Home Rule," *Florida Municipal Record*, 57, 10, 7ff. Also see W. Clark, J. Benton, and R. Kertein, "An Analysis of State-Local Relations in Florida" (Florida Institute of Government, September 1987). Quotations not otherwise attributed are from the article by Steven L. Sparkman.

Section 2-1

Basic Forms of Municipal Government

Borrowing from the English municipal model, America's cities, towns and villages are governed by a legislative body known as a city council (or city commission). This elected body has several responsibilities, which are specified in the charter or incorporating documents. In Florida, each municipality has a charter (see Section 2-2); this document specifies the composition of the elected body and duties of appointed officials.

The council is responsible for creating and enforcing the laws, called ordinances, of the city. The council also has an oversight role that varies in its responsibilities based upon the form of government specified in the charter. The council also adopts and appropriates the city's funds through its budgetary responsibilities, and has fiduciary responsibilities as trustees of public funds. In addition, the council is expected to have a vision for the city's future, which may or may not be detailed in a strategic plan. In Florida, each municipality is also required by state law to have a comprehensive plan, known as the "comp plan" for land-related decisions within its boundaries. Lastly, the city may choose to be a service provider for a utility, utilities or other services, as guided by the citizens and the council.

Throughout the U.S., cities adopt a form of government that sets their structures. The most common of these forms as found in Florida are specified below:

A. COUNCIL-WEAK MAYOR FORM

The original form of municipal government in America was the council-weak mayor form, which was near-universal in the nineteenth century. It is still widely used, particularly in small towns. In most weak-mayor systems, the office of mayor is simply rotated among the elected council members on an annual basis. The council retains collective control over administration, including appointment and dismissal of municipal employees and appointments to boards and commissions. Control of some functional areas (e.g., parks, library) may be delegated by charter or ordinance to semi-independent boards and commissions. In general, the mayor's authority is little, if any, greater than that of the other council members. Department heads – e.g., the clerk, police chief, public works director – report to the council as a whole or to the mayor in his or her capacity as spokesman for the council. Sometimes the municipal clerk functions as a de facto chief administrator.

B. COUNCIL-STRONG MAYOR FORM

The council-strong mayor form gradually evolved from the council-weak mayor form. It provides for a distinct division of powers between the council and the mayor. The mayor actually is the chief executive, that is, the office of mayor has substantial influence in the policy-making process and substantial control over administration. The mayor holds important budgetary and appointing powers, along with the power to veto legislative actions of the council. Administrative authority is not shared with a number of independent boards and commissions. The mayor enjoys general power to appoint people to boards and commissions. Depending upon the city charter, the mayor may (or may not) vote with the legislative body.

Some large cities with a strong mayor have established the position of chief administrative officer under the mayor to handle the day-to-day operations of the government, thus leaving the mayor free to concentrate on policy formulation and ceremonial tasks. In this way, administrative management by a hired assistant to the mayor may be combined with strong political and policy leadership by the mayor.

C. COMMISSION FORM

The commission form combines both executive and legislative powers in a governing board, the commission. There is no single chief executive; rather, the commissioners, who serve collectively as the policy-making body, also serve individually as heads of the principal departments. In the basic commission form, there is neither a mayor nor a city manager. Today, most commission-form cities do select or elect a mayor.

Early advocates of the commission form hoped that the concentration of power in the hands of a few elected council members would make administration more effective and would enhance accountability to the public.

The commission plan was first employed in Galveston, Texas, after a disastrous hurricane almost destroyed the city in 1900. It enjoyed widespread popularity for about two decades. Since 1920, however, its use has declined greatly. Although offering more integration of policy and administration than the council-weak mayor form, the commission form tends to provide inadequate coordination, insufficient internal control, and non-professional direction of administration.

It should be noted that, in Florida, municipalities use the terms “council” and “commission” without reference to the distinction between the commission form and other forms of municipal government. Many Florida municipalities designate their legislative bodies as the “commission” but do not employ the commission form of government. One should not presume that a Florida municipality employs the commission form merely because its policy-making body is labeled “commission.”

D. COUNCIL-MANAGER FORM

One of the key elements in 20th-century municipal reform has been the proposition that a strong and non-political executive office should be the administrative centerpiece of municipal government. This concept has been implemented in thousands of American cities in the 20th century by the adoption of the council-manager form of government. This form parallels the organization of the business corporation: voters (stockholders) elect the council (board of directors), including the mayor (chairman of the board), which, in turn, appoints the manager (chief administrative officer). Unlike the two council-mayor forms, where the emphasis is on political leadership, the prevailing norms in the council-manager form are administrative competence and efficiency.

Under the council-manager form, the manager is the chief administrative officer of the city. The manager supervises and coordinates the departments, appoints and removes their directors, prepares the budget for the council’s consideration, and makes reports and recommendations to the council. All department heads report to the manager. The manager is fully responsible for municipal administration.

The mayor in a council-manager form is the ceremonial head of the municipality, presides over council meetings, and makes appointments to boards. The mayor may be an important political figure, but has little, if any, role in day-to-day municipal administration. In some council-manager cities, the office of mayor is filled by popular election; in others, by council appointment of a council member.

The council-manager plan, first used in 1908 in Staunton, Va., received nationwide attention six years later when Dayton, Ohio, became the first sizable city to adopt it. Thereafter, the plan's popularity enjoyed steady but not spectacular growth until after World War II. At that time, many municipalities were confronted with long lists of needed services and improvements that had backlogged since the Depression years of the 1930s. Faced with such challenges, many municipalities adopted the council-manager form. The plan has been especially attractive to small- and medium-sized localities. It is used in a majority of American municipalities with populations of 25,000 to 250,000. It has been strongly promoted since the 1920s by the National Civic League.

The council-manager form is widely viewed as a way to take politics out of municipal administration. The manager himself is expected to abstain from any and all political involvement. At the same time, the council members and other "political" leaders are expected to refrain from intruding on the manager's role as chief executive. Of course, the manager, who is hired and fired by the council, is subject to the authority of the council, but council members are expected to abstain from seeking to individually interfere in administrative matters, including actions in personnel matters. Some city charters provide that interference in administrative matters by an elected city official is grounds for removal of the elected official from office.

E. MUNICIPAL-GOVERNMENT FORMS IN FLORIDA

In Florida, a municipality is free to adopt any of the basic municipal-government forms identified above or any variation thereof. State law does not prescribe one or more permissible forms, nor does it prohibit any. The Florida Constitution requires only that "each municipal legislative body shall be elective" (Art. 8, Sec. 2 (b), Const.); state statutes require only that an acceptable proposed municipal charter is one which "prescribes the form of government and clearly defines the responsibility for legislative and executive functions."

Many Florida cities have forms of government that combine elements of the four basic structures. These cities, having "hybrid" forms outlined in their charters, are difficult to categorize. More elements of the council-weak mayor form are identified in these hybrids, and carry-over elements of the commission form have also been found.

The most common form of city government in Florida today is the council-manager form. A second common form, found in many smaller municipalities, is the council-weak mayor form. In Florida, in recent years, most changes of municipal-government form have been from some other form to the council-manager form. Approximately 270 Florida cities (out of more than 400) have a position of manager or a similar position, such as "administrator."

In all Florida cities, members of the council or commission are elected by the voters of the city. The mayor may be simply a member of the council, elected by the council to serve as mayor; may be a separate office (that is, not a member of the council) or elected by the people. Certain administrative positions are filled by elections in a few cities. These include the offices of clerk, police chief and fire chief.

REFERENCES

Florida Constitution: Article 8, Section 2(b). Florida Statutes: Section 165.061. *Membership Directory*, Florida League of Cities. *Model City Charter*, 8th Edition, National Civic League, www.ncl.org.

Table 2-1

Comparison of Municipal Executive Types

SOURCE: International City/County Management Association, *Directory of Local Governments*, Washington, D.C.: ICMA, 1978, p. 5

DUTIES	TYPES OF EXECUTIVE	
	Municipal Manager (council-manager position)	Municipal Administrator (general management position)
Appointment	The manager should be appointed by a majority of the council for an indefinite term and removable only by a majority of the council.	The administrator should be appointed by the council or the mayor.
Policy Formulation	The manager should have direct responsibility for policy formulation on overall problems.	(same as municipal manager)
Budget	The manager should have responsibility for preparation of the budget presentation to the council, and direct responsibility for the administration of the council-approved budget.	The administrator should have major responsibilities for preparation and administration of the budget.
Appointing Authority	The manager should have full authority for the appointment and removal of at least most of the heads of the principal departments and functions of the municipal government.	The administrator should exercise significant influence in the appointment of key administrative personnel.
Organizational Relationships	Those department heads whom the manager appoints should be designated by legislation as administratively responsible to the manager.	The administrator should have continuing direct relationships with operating department heads on the implementation and administration of programs.
External Relationships	Responsibilities of manager should include extensive external relationships involving the overall problems of city operations.	(same as municipal manager)
Qualifications	The qualifications for the position should be based on the educational and administrative background of candidates.	(same as municipal manager)

Section 2-2

The Municipal Charter

A. SIGNIFICANCE OF THE CHARTER

The municipal charter is an essential and fundamental element of every Florida municipality. No municipal government may be created without a proposed charter, and no municipal government may exist without a charter.

In addition, the municipal charter is vital to the democratic and effective functioning of a municipal government. It must contain basic provisions for the organization of municipal government. A good charter is one which presents a concise and workable legal framework for the government of the municipality. In addition, says the National Civic League, a good charter is one which "sets before the citizens a clear picture of their own powers and responsibilities and before the officials and employees a statement of their duties and mutual interrelations." The adoption of a good charter, says the League, "is an affirmation by the citizens that they mean to have good government and is the legal framework within which such government can be won and the more easily maintained."

A municipal charter must originate within the community and must be formally approved by a majority of the registered voters of the community. The charter is, in a sense, a compact among the residents of the community regarding the extent and form of government which they desire.

B. CONTENTS OF A CHARTER

A charter should contain details which are of such importance that they should not be subject to change simply by ordinance, without a public referendum. By including certain provisions in the city charter, the citizens ensure that their provisions cannot be changed hastily and without popular consent. On the other hand, subjects of less importance should not be in the charter because it should be easier to make necessary changes affecting them. In short, a happy medium should be found between including "enough" and including "too much" in the charter.

1. Recommended Subjects

What subjects should be included in a charter? The National Civic League has recommended a charter article for each of the following subjects:

1. Powers of the City
2. City Council
3. City Manager (or other chief administrator)
4. Administrative Departments
5. Financial Procedures
6. Planning
7. Nominations and Elections
8. Initiative and Referendum
9. General Provisions
10. Transitional Provisions

2. Models and Samples

The National Civic League has prepared a model charter, which may serve as a guide in the preparation or revision of a charter. See the following:

- *Model City Charter*, National Civic League, 1445 Market Street, #300, Denver, CO, 80202-1728, (303) 571-4343, www.ncl.org. Revised each decade: 8th edition in 2003.

Copies of current Florida city charters may be obtained from the cities themselves and are often posted on-line at city websites. Consult the FLC Municipal Directory for email addresses, and if inquiring for a copy, ask the city clerk's office for assistance. The Florida League of Cities can lend copies of the charters of several Florida cities.

3. The Charter and Home Rule

With the advent of municipal Home Rule in 1969, a municipal government is not restricted to those powers which are listed in its charter. A city may exercise any power for municipal purposes which is not explicitly prohibited by law. That being the case, the charter need not contain an exhaustive list of municipal powers.

Despite the general grant of home-rule authority, a city may not exercise powers which are prohibited to municipalities by the constitution or general law; consequently, it is useless to put such provisions into a charter, as any such provisions found in a charter are null and void.

With certain exceptions, limitations of power contained in a municipal charter prior to July 1, 1973, were nullified in 1973 by legislative enactment of Chapter 73-129, Laws.

4. Statutory Requirements

To be accepted by the Legislature, a proposed charter must meet these conditions regarding its content:

1. It must prescribe the form of government and clearly define the responsibility for legislative and executive functions.
2. It must not prohibit the city council from levying any tax authorized by the Constitution or general law.

C. PREPARATION OF A CHARTER

Preparation of a municipal charter must occur as part of the incorporation process. See the next chapter for details.

D. AMENDING A CHARTER

Amendments to a municipal charter may be proposed either by the council (by ordinance) or by registered voters (by means of a petition). Charter amendments must be approved by the city's electors in a referendum.

All parts of a charter may be amended except that part defining the boundaries of the city. Boundary changes may be made only by following the statutory procedures for annexation and contraction, found in Chapter 171, F.S. Once these procedures are followed, boundary changes may be reflected in the language of the charter by action of the council, by ordinance and without referendum.

Two other types of charter provisions may be changed without referendum. First, a municipal department which is provided for in the charter may be abolished by unanimous vote of the council. Second, charter language which has been judicially construed to be contrary to the federal or state constitution may be removed, again by unanimous vote only. In addition, in charter counties the provisions of the county charter supersede the provisions of the city ordinances. For more information

regarding charter adoption and dissolution, see the section on "Incorporation, Merger and Dissolution" in this manual.

REFERENCES

Florida Statutes: Chapters 165, 166 and 171.

PART I - CHARTER OF CITY OF FERNANDINA BEACH^[1]

Footnotes:

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Editor's note— Printed herein is Charter of the City of Fernandina Beach, Florida, as adopted by Laws of Fla., ch. 8949, 1921 and revised and readopted by Ordinance number 91-17 on Sept. 17, 1991. Amendments to the revised and readopted Charter are indicated by parenthetical history notes following amended provisions. The Charter history note indicates the entire history of each provision. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

ABOLISHMENT OF PRESENT MUNICIPALITY

Sec. 1. - Creation.

The City of Fernandina and the City of Fernandina Beach were combined into one municipality called the City of Fernandina in 1921 pursuant to the Laws of Florida, Chapter 8949 (1921). The name of the municipality was changed to the City of Fernandina Beach (1951) and has operated as a municipal corporation pursuant to Charter since that time.

(Ord. No. [2016-11](#), § 2, 7-5-16)

Editor's note— Ord. No. [2016-11](#), § 2, adopted July 5, 20016, election of Nov. 8, 2016, amended ;s 1, in effect repealing and reenacting said section as set out herein. Former § 1 pertained to existing municipal government abolished and derived from Laws of Fla., ch. 8949(1921), § 1 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 2. - Reserved.

Editor's note— Ord. No. 2011-19, § 2, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 2, which pertained to title to property reserved to new municipality and derived from Laws of Fla., ch. 8949(1921), § 2; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 3. - Reserved.

Editor's note— Ord. No. 2011-19, § 3, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 3, which pertained to contracts remain binding and derived from Laws of Fla., ch. 8949(1921), § 3; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 4. - Reserved.

Editor's note— Ord. No. 2011-19, § 4, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 4, which pertained to officers remain until successors elected; existing ordinances not in conflict to continue in force and derived from Laws of Fla., ch. 8949(1921), § 4; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

ESTABLISHMENT OF NEW MUNICIPALITY

Sec. 5. - Reserved.

Editor's note— Ord. No. 2011-19, § 5, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 5, which pertained to new municipality established and derived from Laws of Fla., ch. 8949(1921), § 5; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 6. - Boundaries.

That the following shall be the territory the inhabitants of which are hereby established and organized into a municipal corporation, and over which such municipality shall exercise its jurisdiction and powers in accordance with state law and City ordinances, to wit:

- (a) *Original boundaries.* Beginning at a point where the range line between Range Twenty-eight (28) East, and Range Twenty-nine (29) East intersects the southerly boundary of Egan's Creek; thence north, along the said range line, to a point on the low water mark of Cumberland Sound; thence easterly, along the said low water mark of Cumberland Sound, to a point on the low water mark of the Atlantic Ocean; thence southerly, along the said low water mark of the Atlantic Ocean, to a point on the southerly boundary of Section Ten (10), Township Two (2) North, Range Twenty-eight (28) East; thence south eighty-nine degrees fifty-five minutes west (S89°55'W), along the southerly boundary of said Section Ten (10), a distance of five hundred eighty-three (583.0) feet, more or less, to a point at the southwest corner of said Section Ten (10), thence north seven degrees twenty-four minutes east (N7°24'E), along the westerly line of said Section Ten (10), a distance of one thousand seven hundred twenty-eight and three-tenths (1728.3) feet to a point at the northwest corner of said Section Ten (10) and on the south line of Section Eight (8), Township Two (2) North, Range Twenty-eight (28) East, said point being south eighty-five degrees fifty-three minutes west (S85°53'W) a distance of two hundred fifty and fourteen hundredths (250.14) feet from the southeast corner of said Section Eight (8); thence south eighty-five degrees fifty-three minutes west (S85°53'W), along the south line of said Section Eight (8), a distance of one thousand seventy-nine and six-tenths (1079.6) feet to a point; thence south eight degrees eighteen minutes west (S8°18'W) a distance of three thousand one hundred sixty-nine and eighty-eight hundredths (3169.88) feet to a point on the south line of Section Eleven (11), Township Two (2) North, Range Twenty-eight (28) East; thence south eighty degrees twenty-four minutes west (S80°24'W), along the south line of said Section Eleven (11), a distance of five thousand two hundred thirty-eight (5238.0) feet, more or less, to a point at the southwest corner of said Section Eleven (11); thence in a northerly direction, along the west line of said Section Eleven (11) and the west line of Government Lots Four (4) and Three (3) in Section Six (6), Township Two (2) North, Range Twenty-eight (28) East, a distance of ten thousand seven hundred fifty (10,750.0) feet, more or less, to a point on the north line of said Section Six (6), said point being the southwest corner of Lot Sixty-six (66) of Ocean Breeze Farms Subdivision as recorded in Plat Book Two (2) at page nineteen (19) of the public records of said Nassau County, Florida; thence south eighty-eight degrees twenty-three minutes east (S88°23'E), along the north line of said Section Six (6), a distance of four hundred nineteen and six-tenths (419.6) feet to a point at the southwest corner of Lot Ninety-nine (99); thence north one degree thirty-seven minutes east (N1°37'E), along the west line of Lots Ninety-nine (99) and Sixty-five (65), a distance of five hundred eleven and five-tenths (511.5) feet to a point at the northwest corner of said Lot Sixty-five (65); thence south eighty-eight degrees twenty-three minutes east (S88°23'E), along the north line of Lots Sixty-five (65) and Fifty-two (52), a distance of one thousand three hundred twenty (1320.0) feet to a point at the northeast corner of said Lot Fifty-two (52); thence south one degree thirty-seven minutes west (S1°37'W), along the east line of Lots Fifty-two (52) and one hundred (100), a distance of five hundred eleven and five-tenths (511.5) feet to a point on the north line of said Section Six (6); thence south eighty-eight degrees twenty-three minutes east (S88°23'E), along the north line of Sections Six (6) and Seven (7), Township Two (2) North, Range Twenty-eight (28) East,

a distance of three thousand ninety-nine and twenty-seven hundredths (3099.27) feet to a point in the center of the south line of Lot One hundred five (105) of Ocean Breeze Farms Subdivision as recorded in Plat Book "O" at page fifty-nine (59) of the public records of said Nassau County, Florida; thence north one degree fifty-four minutes east (N1°54'E), along the center line of Lot One hundred five (105) and Lot Six (6), a distance of three hundred forty-six and five-tenths (346.5) feet to a point in the center of said Lot Six (6); thence south eighty-eight degrees twenty-three minutes east (S88°23'E) a distance of three hundred three and twenty-five hundredths (303.25) feet to a point at the center of the west line of Lot Seven (7); thence north one degree thirty-seven minutes east (N1°37'E), along the west line of Lots Seven (7) and Eight (8), a distance of four hundred ninety-five (495.0) feet to a point at the northwest corner of said Lot Eight (8); thence south eighty-eight degrees twenty-three minutes east (S88°23'E), along the north line of Lots Eight (8), Nineteen (19), and Twenty-one (21), a distance of one thousand seven hundred ninety (1790.0) feet to a point at the northeast corner of said Lot Twenty-one (21); thence south three degrees eighteen minutes east (S3°18'E), along the east Lot Twenty-one (21), a distance of seven hundred forty-nine and eleven hundredths (749.11) feet to a point on the north line of said Section Eight (8); thence north eighty-five degrees fifty-three minutes east (N85°53'E) along the north line of said Section Eight (8), a distance of one thousand six hundred nine and six-tenths (1609.6) feet to a point at the northeast corner of said Section Eight (8); thence northerly, in a straight line through Sections Two (2) and One (1), Township Two (2) North, Range Twenty-eight (28) East, to a point at the northwest corner of Section Six (6), Township Two (2) North, Range Twenty-nine (29) East; thence northerly, along the range line between Ranges Twenty-eight (28) and Twenty-nine (29) East, Township Three (3) North, to a point at the northeast corner of Citrona Lot Twenty-eight (28), according to the official plat of the City of Fernandina Beach (formerly named Fernandina) as lithographed and issued by the Florida Railroad Company in 1857 and enlarged, revised, and reissued by the Florida Town Improvement Company in 1887 and 1901; thence north eighty-two degrees twenty-eight minutes west (N82°28'W), along the prolongation of the southerly right-of-way line of Lime Street (60'R/W), to the low water mark of Amelia River; thence northerly, along the low water mark of Amelia River, to a point at the mouth of Egan's Creek; thence easterly, along the southerly boundary of Egan's Creek to the point of beginning.

(b) *Additions.*

- (1) Certain real property contiguous to the corporate limits of the City of Fernandina Beach, Florida, described as follows, is hereby annexed by the city and shall hereafter be a part of the corporate limits of the city:

That portion of Lots 12 and 13 lying westerly of the city limits of Fernandina Beach, Florida. Lot 14 and the easterly ½ of Lot 15, Block 2, Sadler Estates, as recorded in Plat Book 2, page 62, of the public records of Nassau County, Florida.

All of that property as described below which lies west of the westerly city limits of Fernandina Beach, Florida.

From a point of beginning: Begin at the southeast corner of Section 29, aforementioned; and run south 89°35'15" west along the southerly line of said section a distance of 213.69 feet to the center of a 25.0 feet, more or less, drainage canal; run thence north 5°02'36" east along said center of canal, a distance of 305.30 feet; run thence north 5°54'03" east continuing along said center of canal, a distance of 300.01 feet; run continuing along said center of canal a distance of 300.01 feet; run thence north 7°03'04" east continuing along said center of canal, a distance of 200.15 feet; run thence north 1°56'15" west continuing along said center of canal, a distance of 228.35 feet; run thence north 9°30'39" west continuing along said center of canal, a distance of 280.01 feet to where said center of canal intersects with the southerly boundary of Block 2, Sadler Estates, according to plat recorded in the public records of said county in Plat Book 2, page 68; run thence south 78°14' east along said southerly boundary a distance of 807.49 feet to the southeast corner of Lot 6, Block 2, aforesaid; run thence north 11°46' east along the easterly boundary of Lot 6, aforesaid, a distance of 10.0 feet to the southwest corner of Lot 5, Block

2, aforesaid; run thence south 78°14' east continuing along the southerly boundary of Block 2, aforesaid, and the easterly extension thereof, a distance of 421.69 feet to where said southerly boundary intersects with the westerly right-of-way of First Avenue extension (a 60.0 foot right-of-way); run thence south 11°07' west along said right-of-way a distance of 971.08 feet to the beginning of a curve concave to the easterly, having a radius of 1,636.86 feet; run thence in a southerly direction along the arc of said curve and right-of-way a chord distance of 203.92 feet to the point of reverse curve (the bearing of the aforesaid chord being south 7°53'15" west); run thence in a southerly direction along the arc of a curve concave to the westerly, having a radius of 1,576.86 feet and continuing along said right-of-way a chord distance of 193.96 feet to the point of tangency (the bearing of the aforesaid chord being south 7°53'15" west); run thence south 11°27' west, continue along said right-of-way a distance of 5.70 feet to where said right-of-way intersects with the southerly line of Section 20, aforementioned; run thence north 89°18" west along said southerly line, a distance of 893.67 feet to the point of beginning.

- (2) The following parcel of real property be annexed to the City of Fernandina Beach, pursuant to petition filed by the owner of said lands and approved by the City Commission of the City of Fernandina Beach, said real property and owner of same being as follows:

A portion of Section Eleven (11), Township Two (2) North, Range Twenty-eight (28) East, Nassau County, Florida. Said portion being more particularly described as follows:

For a point of reference commence at the northeast corner of Section Eleven (11), aforementioned, and run south eighty-five (85) degrees, fifty-five (55) minutes, thirty (30) seconds west along the south right-of-way line of Bill Melton Road (a sixty (60.0) foot right-of-way) a distance of three hundred thirty-one and sixty-one hundredths (331.61) feet to the point of beginning.

From the point of beginning thus described, continue south eighty-five (85) degrees, fifty-five (55) minutes, thirty (30) seconds west along said right-of-way a distance of four hundred ninety-one and nineteen hundredths (491.19) feet to the beginning of a curve concave to the southeasterly, having a radius of thirty (30.0) feet; run thence in a southerly direction departing said right-of-way and along the arc of said curve, a chord distance of forty-four and thirty-eight hundredths (44.38) feet to the point of tangency (the bearing of the aforementioned chord being south thirty-eight (38) degrees, thirteen (13) minutes west); run thence south nine (09) degrees, twenty-nine (29) minutes, thirty (30) seconds east a distance of one hundred thirty-five and fifty-two hundredths (135.52) feet to the beginning of a curve concave to the northwesterly, having a radius of one hundred five (105.0) feet; run thence in a southerly direction along the arc of said curve a chord distance of ninety-one and forty-seven hundredths (91.47) feet (the bearing of the aforementioned chord being south sixteen (16) degrees, nineteen (19) minutes, forty-three (43) seconds west); run thence north eighty-five (85) degrees, fifty-five (55) minutes, thirty (30) seconds east a distance of five hundred ninety and twenty-nine hundredths (590.29) feet; run thence north fifteen (15) degrees, fifteen (15) minutes, forty-one (41) seconds west a distance of two hundred fifty-eight and thirty-nine hundredths (258.39) feet to the point of beginning.

Said lands being owned by the Davis-Phoenix Company, Inc., a Florida corporation, less and except the easterly sixty (60.0) feet thereof, which is owned by the City of Fernandina Beach.

(Laws of Fla., ch. 8949(1921), § 6; Laws of Fla., ch. 10550(1925), § 1; Laws of Fla., ch. 18523(1937), § 1; Laws of Fla., ch. 19821(1939), § 1; Laws of Fla., ch. 59-1278, § 1; Ord. No. 630, § 2, 9-21-82; Ord. No. 653, § 1, 11-15-83; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 3, 7-5-16)

Sec. 7. - Powers of city generally.

- (a) The City of Fernandina Beach shall have full power and authority to:
- (1) Acquire, take, hold, control and dispose of property, real, personal and mixed, both within and without its corporate limits, for the use, benefit, welfare and best interest of said municipality, by acquisition, condemnation or otherwise;
 - (2) To issue and sell bonds upon its property both within and without its corporate limits, or the earnings thereof, or both;
 - (3) To adopt and enforce local police, sanitary and other similar regulations not in conflict with the laws of the state;
 - (4) To do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants; and
 - (5) To exercise all other powers of local self-government.
- (b) The enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the city shall have, and may exercise, all other powers which, under the constitution and laws of Florida, it would be competent for this section specifically to enumerate.

(Laws of Fla., ch. 8949(1921), § 7; Laws of Fla., ch. 10550(1925), § 2; Laws of Fla., ch. 18521(1937), § 1; Laws of Fla., ch. 65-1525, § 1; Ord. No. 91-17, § 1, 9-17-91)

Sec. 8. - Commission-manager plan [form] of government.

The form of government of the City of Fernandina Beach provided for under this Act shall be that known as the "Commission-Manager Plan," and the commission shall consist of five (5) citizens, who shall be elected at large in the manner hereinafter provided. The commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt regulations and appoint a chief administrative officer to be known as the "City Manager," and to exercise all other powers hereinafter provided.

(Laws of Fla., ch. 8949(1921), § 8; Ord. No. 91-17, § 1, 9-17-91)

CITY COMMISSION

Sec. 9. - Created; election by groups; number; term.

The City Commission shall prescribe the conduct, method, dates and manner of holding elections by ordinance, in substantial compliance with the principles adopted for state elections. In matters on which the conduct of municipal elections can vary from the conduct of state elections, the City Commission may, by ordinance, adopt rules specific to municipal elections. All City elections shall be non-partisan.

There is hereby created a City Commission to consist of five (5) electors of the City of Fernandina Beach and elected at large.

- (a) If an affirmative majority of the present City Commission so desires, the city shall, by ordinance, motion or otherwise, elect five (5) members for said commission in the following manner:

One (1) member shall run as a candidate from and be elected by the qualified electors of group one (1), the boundaries of which shall be coterminous with the boundaries of the City of Fernandina Beach, Florida, and when elected shall serve as city commissioner of and for group one (1) of said city.

One (1) member shall run as a candidate from, and be elected by the qualified electors of, group two (2), the boundaries of which shall be coterminous with the boundaries of the City of Fernandina Beach, Florida, and when elected shall serve as city commissioner of and for group two (2) of said city.

One (1) member shall run as a candidate from, and be elected by the qualified electors of, group three (3), the boundaries of which shall be coterminous with the boundaries of the City of Fernandina Beach, Florida, and when elected shall serve as city commissioner of and for group three (3) of said city.

One (1) member shall run as a candidate from, and be elected by the qualified electors of, group four (4), the boundaries of which shall be coterminous with the boundaries of the City of Fernandina Beach, Florida, and when elected shall serve as city commissioner of and for group four (4) of said city.

One (1) member shall run as a candidate from, and be elected by the qualified electors of, group five (5), the boundaries of which shall be coterminous with the boundaries of the City of Fernandina Beach, Florida, and when elected shall serve as city commissioner of and for group five (5) of said city.

- (b) Members shall serve for a term of four (4) years or until their successors have been elected and take office. Elections for the groups referred to in paragraph (a) shall be held as follows:

Group 1 shall be elected in 2016.

Groups 2 and 3 shall be elected in 2017 and 2020.

Groups 4 and 5 shall be elected in 2015 and 2018.

Thereafter, all groups shall be elected every four (4) years for a term of four (4) years.

- (c) If there are several candidates in each group, then the candidate receiving a majority vote shall be held elected for that group, provided, however, that in the event the candidate shall not receive a majority vote, then and in that event the two (2) candidates receiving the largest or highest votes shall have their names placed on an election ballot (unless one (1) of the two (2) candidates to be elected shall withdraw from the race, then and in that event no run off or second election shall be called and the remaining candidate shall be declared elected) in a run off or second election and in said run off or second election the candidate receiving the largest or highest votes shall be held elected for that group; provided always, however, that this shall not apply to any candidate or candidates that receive a majority vote in the first or general election. Provided, however, that no group or groups of candidates shall qualify in more than one (1) group in any general election or run off or second election in any one year.
- (d) City elections shall be nonpartisan and shall be held every two (2) years in even numbered years and in conjunction with county, state and federal elections. The City Commission shall have the authority to call for special elections at any time not on the same dates as the City general elections for special elections, ballot questions and referenda.

(Laws of Fla., ch. 8949(1921), § 9; Laws of Fla., ch. 17542(1935), § 1; Laws of Fla., ch. 59-1278, § 2; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2009-06, § 2, 3-7-09; Ord. No. [2015-13](#), § 2, 8-4-15)

Sec. 10. - Powers generally; dealing with administrative service through Charter Officers required; violations deemed misdemeanor, penalty.

- (a) The Mayor and Commissioners shall not, in any manner, dictate the appointment or removal of any city officers or employees whom the Charter Officer or any of his/her subordinates are empowered to appoint, evaluate and supervise.
- (b) All powers of the City, except as otherwise provided by this Charter or by the constitution of this state, are hereby vested in the City Commission. Except as otherwise provided by this Charter or by the constitution of this state, the City Commission may by ordinance or resolution prescribe the manner in which any power of the city shall be exercised.
- (c) The Mayor and Commissioners shall deal with administrative service through the respective Charter Officer. The Mayor and Commissioners shall not directly interfere with or direct the conduct of any employee in the discharge of prescribed duties. However, with the express permission of the respective Charter Officer, the Mayor and Commissioners may communicate directly with an employee.
- (d) Any violation of the provisions of this section by any member of the City Commission shall, upon first offense be grounds for sanction by the Commission, and any second or subsequent offense or violation within a commissioner's term shall constitute a misdemeanor and, upon conviction thereof before any court of competent jurisdiction the violator shall be fined in an amount not exceeding two hundred dollars (\$200.00), or be imprisoned for a period not exceeding six (6) months, or both, at the discretion of the court, and shall be subject to removal from office.
- (e) Investigations or inquiries shall be conducted pursuant to Section 136 of this charter.

(Laws of Fla., ch. 8949(1921), § 10; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2009-06, § 3, 3-7-09)

Sec. 10A. - Referendum required for sale of city-owned recreational facilities and land.

- (1) A referendum election shall be required prior to the sale, lease for a period of more than 40 years, or other transfer of City owned swimming pools, golf course or courses, any and all recreational facilities, or lands which are designated for recreational use in the City's comprehensive plan or any portion thereof, and all buildings, improvements and appurtenances pertaining thereto, whether presently built or hereafter built. The City Commission shall pass an ordinance by a majority vote to place the matter on the ballot for the voters to decide. The decision of the voters shall be binding. If approved by the voters, the City Commission shall have the authority to issue a deed for the property, or to issue such other documents as may be necessary to complete the transaction.
- (2) "Recreational facilities" as used in this section is hereby defined as any real property, including improvements thereon, owned by the City of Fernandina Beach and used or intended for use by the general public primarily for parks, playgrounds, amusements, resorts, pleasure, nature preserves; botanic, zoological or marine conservatories; sporting events, pleasure boating, swimming, fishing or any other recreational activity. Such recreational facilities shall be designated by a resolution of the City Commission and which resolution shall be updated from time to time.

(Ord. No. [2016-11](#), § 4, 7-5-16)

Editor's note— Ord. No. [2016-11](#), § 4, adopted July 5, 2016, election of Nov. 8, 2016, amended § 10A, in effect repealing and reenacting said section as set out herein. Former § 10A pertained to additional powers; conveyance of swimming pools, golf courses, other recreational facilities and derived from Laws of Fla., ch. 59-1278, § 4; Ord. No. 668, § 1, adopted Aug. 7, 1984; Ord. No. 793, § 1, adopted Apr. 5, 1988; and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 10B. - General power to borrow money and issue bonds.

The City of Fernandina Beach shall have the power to borrow money, contract loans, and issue bonds, notes and other obligations or evidences of indebtedness in accordance with Florida law.

(Ord. No. [2016-11](#), § 5, 7-5-16)

Editor's note— Ord. No. [2016-11](#), § 5, adopted July 5, 2016, election of Nov. 8, 2016, amended § 10B, in effect repealing and reenacting said section as set out herein. Former § 10B pertained to issuance of revenue bonds or certificates without referendum authorized; certain funds pledged and derived from Laws of Fla., ch. 61-2155, § 1 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

State Law reference— Tax on cigarettes prohibited by state law, F.S. § 210.03.

Sec. 11. - Qualifications of members; holding of more than one office not permitted; interest in profits of city contracts, etc., prohibited.

Members of the commission shall be residents of the city and have the qualifications of electors therein. Officers and employees of the city may not hold more than one office in the city government of the City of Fernandina Beach, and shall not be interested in the profits or emoluments of any contract work or service for the municipality, and any such contract in which any member is, or may become, interested shall be declared void by the commission.

(Laws of Fla., ch. 8949(1921), § 11; Ord. No. 91-17, § 1, 9-17-91)

Const. law reference— Dual office holding prohibited, Fla. Const. art. 11, § 5(a).

State Law reference— Code of ethics, F.S. § 112.311 et seq.

Sec. 12. - Salary of members.

The Mayor and City Commissioners shall receive a salary in the amount as established by appropriate city ordinance.

(Laws of Fla., ch. 8949(1921), § 12; Laws of Fla., ch. 59-1278, § 3; Ord. No. 612, § 1, 9-30-81; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2004-09, § 2, 6-15-04; Ord. No. 2011-21, §§ 1, 2, 11-1-11, eff. 10-1-11; Ord. No. [2016-11](#), § 6, 7-5-16)

Sec. 13. - Limitation on successive terms in office.

The city commissioners shall be limited to two (2) successive terms in office. No person shall be qualified for election or appointment to a vacancy upon the city commission of the City of Fernandina Beach, Florida, unless at least three (3) years have elapsed since such person last held such office, if at that time such person completed two (2) successive and full terms.

(Ord. No. 92-7, § 2, 3-3-92/4-14-92)

Sec. 14. - Judge of election and qualifications of members.

The commission shall be the judge of the election and qualification of its own members, subject to review by the courts. Any member of the commission who shall be convicted of [a] crime while in office shall thereby forfeit his office.

(Laws of Fla., ch. 8949(1921), § 14; Ord. No. 91-17, § 1, 9-17-91)

Sec. 15. - Vacancies, how filled.

Any vacancy in the city commission shall be filled until the next regular municipal election by vote of the remaining members of the commission; provided, that if such vacancy is not filled within thirty (30) days after it shall have occurred, appointment to fill the existing vacancy shall be made by the governor. Vacancies resulting from a recall election shall be filled as required by state law.

(Laws of Fla., ch. 8949(1921), § 15; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2010-05, § 2, 2-2-10)

State Law reference— Filling of vacancy after a recall election, F.S. § 100.361.

Sec. 16. - Mayor—When selected; procedure; term.

- (a) In case the members of the Commission are unable to agree on the selection of Mayor, at the time fixed in the Code of Ordinances for the Commission's annual organization meeting, then the Mayor shall be chosen by lot, conducted by the city attorney, who shall certify the result of such lot upon the journal of the commission.
- (b) The mayor shall serve a term of two (2) years to coincide with the municipal general election beginning in 2018, unless sooner removed from office by the City Commission as provided below in subsection (c).
- (c) The City Commission may, by majority vote and for any reason, remove the Mayor from office and appoint another incumbent commissioner to serve as Mayor for the remainder of the two (2) year term. The person removed from the office of Mayor shall continue to serve as commissioner until the end of their current term as commissioner unless otherwise prohibited from serving as commissioner by state law.

(Laws of Fla., ch. 8949(1921), § 16; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2015-13](#), § 3, 8-4-15)

Sec. 17. - Same—Functions and powers of the mayor.

The powers and duties of the Mayor shall be as set forth in this Charter and such other duties as may be conferred upon the Mayor by official action of the City Commission. The Mayor shall have a voice and a vote in the proceedings of the commission but no veto power. The Mayor shall not exercise any administrative power, unless specifically set forth in this Charter. The Mayor shall preside at all meetings of the commission and perform such other duties consistent with the office, and may use the title of Mayor in the execution of legal instruments or when required by the general or special laws of the state. The Mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil processes and for all ceremonial purposes.

(Laws of Fla., ch. 8949(1921), § 17; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 7, 7-5-16)

Editor's note— Ord. No. [2016-11](#), § 7, adopted July 5, 2016, election of Nov. 8, 2016, amended § 17 and in so doing changed the title of said section from "Same—Functions and powers" to "Functions and powers of the mayor," as set out herein.

Sec. 18. - Reserved.

Editor's note— Ord. No. [2015-13](#), § 4, adopted Aug 4, 2015, repealed § 18, which pertained to meetings—regular; time, place, frequency and derived from Laws of Fla., ch. 8949(1921), § 18; Ord. No. 91-17, § 1, 9-17-91.

Sec. 19. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 8, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 19, which pertained to Mayor—Special, how called and derived from Laws of Fla., ch. 8949(1921), § 19 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 20. - Same—Vacating seat of member for unexcused absence of specified duration.

Absence from four consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the fact of such excuse duly entered upon the journal.

(Laws of Fla., ch. 8949(1921), § 20; Ord. No. 91-17, § 1, 9-17-91)

Sec. 21. - Adoption and enactment of municipal ordinances and resolutions; quorum for city commission.

- (1) The adoption of ordinances and resolutions must be in compliance with Section 166.041, Florida Statutes, or such other section in Florida Statutes pertaining to the adoption of municipal ordinances or resolutions, as the same may be amended from time to time.
- (2) A majority of the members of the city commission shall constitute a quorum. An affirmative vote of at least three city commissioners shall be necessary to enact any ordinance or resolution; except that two-thirds of the city commission is required to enact an emergency ordinance. An affirmative vote of a majority of a quorum present is necessary to adopt any resolution. On final passage, the vote of each member of the city commission voting shall be entered on the official record of the meeting. All ordinances or resolutions passed by the city commission shall become effective ten (10) days after passage or as otherwise provided therein.
- (3) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the presiding officer and the clerk of the city commission.

(Laws of Fla., ch. 8949(1921), § 1; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 94-32, § 1, 12-6-94/4-11-95; Ord. No. 2000-01, § 1, 2-15-00/4-11-00; Ord. No. [2016-11](#), § 9, 7-5-16)

Secs. 22—24. - Reserved.

CITY MANAGER

Sec. 25. - Appointment; tenure of office; qualifications; manager pro tem.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and shall hold office at the pleasure of the city commission. The city manager shall be chosen solely on the basis of executive and administrative qualifications without regard to political belief, and need not be a resident of the city or state at the time of appointment; however, not later than 30 days after executing the Oath of Office, the city manager shall become a resident of the city. The city commission may establish an appropriate contract for the city manager, which shall contain the employment conditions, compensation, benefits and such other terms as may be appropriate. The city manager may also be deemed to be a regular employee of the city, and the employment conditions, compensation, benefits and other terms may be set by the city commission through ordinance, resolution or policy. During the absence or disability of the city manager, the city commission shall designate some properly qualified person to temporarily execute the function of the city manager.

(Laws of Fla., ch. 8949(1921), § 25; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-4, § 1, 2-17-98; Ord. No. 2005-40, § 3, 1-17-06)

Sec. 26. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 10, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 26, which pertained to Compensation fixed by city commission and derived from Laws of Fla., ch. 8949(1921), § 26; Laws of Fla., ch. 15203(1931), § 1; Laws of Fla., ch. 24511(1947), § 1; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 27. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 11, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 27, which pertained to bonds and derived from Laws of Fla., ch. 8949(1921), § 27 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 28. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 11, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 28, which pertained to suspension; removal; hearing required and derived from Laws of Fla., ch. 8949(1921), § 28 and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 29. - Powers and duties enumerated.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city, and to that end his powers are and they shall be:

- (a) To see that the laws and ordinances are enforced.
- (b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the city; all appointments to be made upon merit and fitness alone.
- (c) To exercise control and direct supervision over all departments and divisions of the municipal government under this Charter, or which may hereafter be created by the city commission, including public utilities owned by said city.
- (d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof,

to call the same to the attention of the city attorney, whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.

- (e) To attend all meetings of the city commission, and of its committees, with right to take part in the discussions, but without having a vote.
- (f) To recommend to the commission for adoption such measures as he may deem necessary or expedient in the interests of the city.
- (g) To keep the city commission fully advised as to the financial condition and needs of the city and to submit for its consideration an annual budget.
- (h) To perform such other duties as may be prescribed under this Charter or as may be required of him by ordinance or resolution of the city commission.
- (i) He shall be purchasing agent for the city, by whom all purchases of supplies shall be made and he shall approve all vouchers for the payment of same. In the capacity of purchasing agent he shall also conduct all sales of personal property which the commission may authorize to be sold as having become unnecessary or unfit for the city's use. All purchases and sales shall conform to such regulations as the city commission may from time to time prescribe.

(Laws of Fla., ch. 8949(1921), § 29; Ord. No. 91-17, § 1, 9-17-91)

Sec. 30. - Reserved.

CITY ATTORNEY

Sec. 31. - City Attorney appointment and duties.

- a) *Appointment; tenure of office; qualifications; and attorney pro tem.* The City Commission shall appoint a city attorney, who shall act as the legal advisor to and attorney and counselor for the municipality and all of its officers in matters relating to their official duties. The City Attorney shall serve under the direction and supervision of the City Commission and shall hold office at the pleasure of the City Commission. The City Attorney shall be chosen on the basis of legal and administrative qualifications. The City Commission shall establish an appropriate contract for the City Attorney, which shall contain the employment conditions, compensation, benefits and such other terms as may be appropriate. During the absence or disability of the City Attorney, the City Commission shall designate a properly qualified person to temporarily execute the functions of the office.
- b) *Powers and duties enumerated.* The City Attorney shall be responsible to the City Commission for the proper administration of all affairs of the City assigned to the office of the City Attorney and to that end, the City Attorney's duties and powers shall be the following:
 - 1) Prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and shall endorse on each the City Attorney's approval;
 - 2) The City Attorney shall be authorized to take such action required to avoid default judgment against the City in any litigation and shall obtain authorization by resolution to prosecute and defend all causes of action, lawsuits and claims in which the City is a party. The City Attorney shall review with the City Commission at the next regular meeting when any action to avoid default has been taken by the City Attorney;
 - 3) The City Attorney shall provide opinions of law relating to the activities of the City, the City Commission, the City Manager and City Clerk, upon request; and the direct employees of the City Attorney in the office of the City Attorney shall report to the City Attorney. The City Attorney shall have the authority to hire, direct, promote and terminate the employees in the City Attorney's Office, notwithstanding Section 29(b) herein.

(Laws of Fla., ch. 8949(1921), § 31; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2008-04, § 2, 3-4-08)

Sec. 32. - Additional duties.

In addition to the duties specifically imposed under the preceding section, he [the city attorney] shall perform such other professional duties as may be required of him by ordinance or resolution of the city commission or as are prescribed for city attorneys under the general law of the state which are not inconsistent with this Charter and with any ordinance or resolution which may be passed by the city commission.

(Laws of Fla., ch. 8949(1921), § 32; Ord. No. 91-17, § 1, 9-17-91)

Sec. 33. - Qualifications.

The city attorney shall be a lawyer admitted to and having authority to practice in all courts of the state.

(Laws of Fla., ch. 8949(1921), § 33; Laws of Fla., ch. 15203(1931), § 2; Ord. No. 91-17, § 1, 9-17-91)

Secs. 34—38. - Reserved.

DEPARTMENT OF PUBLIC SAFETY AND WELFARE AND PUBLIC WORKS

Sec. 39. - Reserved.

Editor's note— Ord. No. 2011-19, § 6, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 39, which pertained to duties and responsibilities of city manager and derived from Laws of Fla., ch. 8949(1921), § 39; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 40. - Reserved.

Editor's note— Ord. No. 2010-5, § 3, adopted February 2, 2010, amended the Code by repealing former § 40 in its entirety. Former § 40 pertained to the public health officer, and derived from the Laws of Fla., ch. 8949(1921), § 40; and Ord. No. 91-17, adopted September 17, 1991.

Sec. 41. - Police force—Composition; authority of chief.

The police force of the City of Fernandina [Beach] shall consist of a chief of police and as many subordinate officers, policemen and employees as the city commission shall by resolution determine. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, subject to the approval of the city manager and under such rules and regulations as the city commission may prescribe or as may be prescribed by the ordinances of the city.

(Laws of Fla., ch. 8949(1921), § 41; Ord. No. 91-17, § 1, 9-17-91)

Sec. 42. - Reserved.

Editor's note— Ord. No. 2010-5, § 5, adopted February 2, 2010, amended the Code by repealing former § 42 in its entirety. Former § 42 pertained to extra patrolmen appointed by city manager, and derived from the Laws of Fla., ch. 8949(1921), § 42; Ord. No. 91-17, adopted September 17, 1991.

Sec. 43. - Reserved.

Editor's note— Ord. No. 2010-5, § 6, adopted February 2, 2010, amended the Code by repealing former § 43 in its entirety. Former § 43 pertained to the chief attending commission meetings and execution of commands, and derived from the Laws of Fla., ch. 8949(1921), § 42; Ord. No. 91-17, adopted September 17, 1991.

Sec. 44. - Fire force; composition; authority of chief.

The fire force of the city shall consist of a chief, who shall be fire warden, and as many subordinate officers, firefighter/rescue personnel and employees as the city commission shall, by ordinance, determine. The fire chief shall have exclusive control of the stationing and transfer of all firefighter/rescue personnel and other officers and employees of the fire force subject to such rules and regulations as may be prescribed by the city manager or by ordinance of the city; he shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of his force. In case of riot, conflagration or like emergency, the city manager may appoint additional firefighter/rescue personnel for temporary service.

(Laws of Fla., ch. 8949(1921), § 44; Ord. No. 91-17, § 1, 9-17-91)

Sec. 45. - Public utilities.

The City of Fernandina Beach shall have the power to own and operate all utilities, both within its boundaries, and outside its boundaries, in order to serve the public health, safety and welfare. The City shall have the power to do all things necessary for the operation of the utilities, and the protection of the public health and safety and welfare.

(Laws of Fla., ch. 8949(1921), § 45; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 12, 7-5-16)

Editor's note— Ord. No. [2016-11](#), § 12, adopted July 5, 2016, election of Nov. 8, 2016, amended § 45 and in so doing changed the title of said section from "City owned utilities, public works and welfare under management and control of city manager" to "Public utilities," as set out herein.

CITY CLERK

Sec. 46. - Appointment; tenure of office; qualifications; and clerk pro tem.

The City Commission shall appoint a City Clerk, who shall serve under the direction and supervision of the City Commission and shall hold office at the pleasure of the City Commission. The City Clerk shall be chosen on the basis of administrative qualifications. The City Commission shall establish an

appropriate contract for the City Clerk, which shall contain the employment conditions, compensation, benefits and such other terms as may be appropriate. During the absence or disability of the City Clerk, the City Commission shall designate a properly qualified person to temporarily execute the functions of the office.

(Laws of Fla., ch. 8949(1921), § 57; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-5, § 1, 2-17-98; Ord. No. 2008-04, § 3, 3-4-08)

Sec. 47. - Powers and duties enumerated.

The City Clerk shall be responsible to the City Commission for proper administration of all affairs of the City assigned to the office of the City Clerk and to that end, the City Clerk's duties and powers shall be the following:

- a) Attend all meetings of the City Commission 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 the signature of the City Clerk and by the signature of the presiding officer of the City Commission. Additionally, a journal shall be maintained of the proceedings of all boards and committees required by the City Commission;
- b) The City Clerk shall be the custodian of the seal of the City;
- c) Conduct municipal elections exercising authority not reserved to county constitutional officers; however all such authority and responsibility to conduct municipal elections, either special or general municipal elections, may be contracted out to the Nassau County Supervisor of Elections, as determined by the City Commission from time to time;
- d) Countersign all checks and review outgoing checks to determine compliance with the City's established Purchasing Policy and Procedures;
- e) Serve as legal custodian of all city records including but not limited to, all contracts, deeds, abstracts, title insurance policies and other official documents, and perform such other duties as may be required by ordinance or resolution of the City Commission, as well as such as may be required by City Clerks by the general law of the state, applicable to municipalities and not inconsistent with this charter or with any ordinance or resolution passed by the City Commission;
- f) Authenticate all ordinances, resolutions and transcripts of legislative functions;
- g) Publish all public notices required by the City Commission or by law;
- h) Prepare all awards, proclamations, certificates and other formal Documentation by the City Commission;
- i) Notify the City Commission of all vacancies on boards or committees established by the City Commission;
- j) File all liens, satisfactions and releases as authorized by the City Manager;
- k) Serve as notary public on behalf of the City and attest all City documents as required;
- l) The direct employees of the City Clerk in the office of the City Clerk shall report to the City Clerk. The City Clerk shall have the authority to hire, direct, promote and terminate the employees in the City Clerk's office, notwithstanding Section 29(b) herein; and
- m) Any other duties as required by the City Commission.

(Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-6, § 1, 2-17-98; Ord. No. 2008-04, § 4, 3-4-08; Ord. No. 2010-23, § 2, 8-17-10)

Secs. 48—57. - Reserved.

DEPARTMENT OF FINANCE; CITY CONTROLLER

Sec. 58. - Department of finance established.

There shall be a department of Finance, which shall be headed by a City Comptroller, who shall be under the supervision of the City Manager. The City Comptroller shall be the custodian of all monies of the City and shall keep, preserve, invest and deposit all funds of whatever kind in a legally authorized manner in accordance with the guidelines of the Governmental Accounting Standards Board, as established by the State of Florida and any established policies and procedures of the City.

(Laws of Fla., ch. 8949(1921), § 58; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 13, 7-5-16)

Editor's note— Ord. No. [2016-11](#), § 13, adopted July 5, 2016, election of Nov. 8, 2016, amended § 58 and in so doing changed the title of said section from "Director of department of finance; office established; custodian of municipal moneys" to "Department of finance established," as set out herein.

Sec. 59. - Bond.

The city comptroller shall give a bond in the amount established by ordinance of the city commission from time to time.

(Laws of Fla., ch. 8949(1921), § 59; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 14, 7-5-16)

Sec. 60. - Collection of interest on investments or deposits.

All moneys due as interest upon investments or deposits shall be collected by the city comptroller and placed to the credit of the city, and any and all bonds and securities taken for investments and deposits shall be held by the city comptroller for safe keeping for the benefit of the city.

(Laws of Fla., ch. 8949(1921), § 60; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 15, 7-5-16)

Sec. 61. - Collection of taxes, license fees and all moneys belonging to city.

The City Comptroller shall assure that all monies belonging to the City are properly recorded, reconciled and accounted for, including but not limited to taxes, licenses, revenue sharing, grants, special assessments, fines and income from all other sources in accordance with the guidelines of the Governmental Accounting Standards Board, as established by the laws of the State of Florida.

(Laws of Fla., ch. 8949(1921), § 61; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 16, 7-5-16)

Sec. 62. - Payment of moneys; procedure.

The City Comptroller shall issue checks to be paid from city funds only in accordance with established procedures, which procedures shall be reviewed and approved by the City Manager and City Commission. The checks of the City may carry electronic signatures. In a declared emergency, the persons authorized to sign on behalf of the City shall be established by resolution.

(Laws of Fla., ch. 8949(1921), § 62; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 17, 7-5-16)

Sec. 63. - Reserved.

Sec. 64. - Financial report; submission to commission monthly.

At a regular city commission meeting, the city comptroller shall submit to the city commission through the city manager, a detailed report of the financial status of the City funds. The city comptroller, or designee, shall also attend the meeting to provide the necessary interpretation of the submitted financial data or to respond to the financial questions generated by the commission.

(Laws of Fla., ch. 8949(1921), § 64; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-7, § 1, 2-17-98; Ord. No. [2016-11](#), § 18, 7-5-16)

Sec. 65. - Reserved.

Editor's note— Ord. No. 2011-19, § 7, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 65, which pertained to warrants; how paid and derived from Laws of Fla., ch. 8949(1921), § 65; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 66. - Reserved.

Editor's note— Ord. No. 2011-19, § 8, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 66, which pertained to maintenance of separate accounts for funds and appropriations; receipts required in duplicate and derived from Laws of Fla., ch. 8949(1921), § 66; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 67. - Reserved.

Editor's note— Ord. No. 2011-19, § 9, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 67, which pertained to special fund for moneys received on account of special assessments and derived from Laws of Fla., ch. 8949(1921), § 67; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

[RESERVED]^[2]

Footnotes:

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Editor's note— Ord. No. 2011-19, § 10, adopted Oct. 4, 2011, repealed § 68, which pertained to sinking funds—Administration of sinking funds and bond issues and derived from Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 68. - Reserved.

ADVISORY BOARDS

Sec. 69. - How constituted.

The city commission may at any time appoint a fact-finding or advisory board or boards, composed of men and women who are residents of the City of Fernandina Beach qualified to act in an advisory capacity to the city commission or the city manager, with respect to the conduct and management of any property or institutions or the exercises of any public functions of the city. The members of any such board 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 such municipal officers and make written recommendations, which shall become part of the records of the city.

(Laws of Fla., ch. 8949(1921), § 69; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 98-8, § 1, 2-17-98)

FINANCES AND TAXATION

Sec. 70. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 19, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 70, which pertained to fiscal year and derived from Laws of Fla., ch. 8949(1921), § 70; Laws of Fla., ch. 10550(1925), § 3; Laws of Fla., ch. 25824(1949), § 1; and Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 71. - Annual estimate of expenditures and revenues for forthcoming year; submission to city commission by city manager.

The City Manager shall set forth an estimate of the expenditures and revenues of the city for the upcoming fiscal year. The estimate of expenditures and revenues shall be submitted in compliance with the procedures set forth in the laws of Florida. The estimates and budget so given and constituting the recommendation of the City Manager as to the amounts necessary to be appropriated for the ensuing fiscal year shall be supported with information giving the reasons therefore in such detail as may be necessary to afford the City Commission a comprehensive understanding of the needs and requirements of the various departments and divisions of the city government for the ensuing fiscal year.

(Laws of Fla., ch. 8949(1921), § 71; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 92-24, § 1, 9-15-92; Ord. No. [2016-11](#), § 20, 7-5-16)

Sec. 72. - Annual budget and appropriation.

The city commission shall abide by the laws of the State of Florida in the preparation, submission and publication of its annual budget and appropriation by ordinance or resolution.

(Laws of Fla., ch. 8949(1921), § 72; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2010-05, § 8, 2-2-10)

Sec. 73. - Reserved.

Sec. 74. - Transfer of funds.

Upon request of the city manager, the city commission may authorize a budget amendment or budget transfer by resolution. The city manager shall be authorized to transfer funds within the same department or division thereof in such maximum amounts as established by ordinance or resolution from time to time.

(Laws of Fla., ch. 8949(1921), § 74; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 94-29, § 1, 12-6-94/4-11-95; Ord. No. 98-9, § 1, 2-17-98; Ord. No. 2010-05, § 9, 2-2-10)

Sec. 75. - Limitation on appropriations.

At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. Any accruing revenue of the city, not appropriated and hereinbefore provided, and any balance at any time remaining after the purpose of the appropriation shall have been satisfied or abandoned may from time to time be appropriated by the city commission to such use as will not conflict with any uses for which specifically such revenues accrued. No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of the money be incurred, except pursuant to the appropriation made by the city commission.

(Laws of Fla., ch. 8949(1921), § 75; Ord. No. 91-17, § 1, 9-17-91)

Sec. 76. - Reserved.

Editor's note— Ord. No. 2011-19, § 11, adopted Oct. 4, 2011, election of Nov. 8, 2011, repealed § 76, which pertained to payment of claims and derived from Laws of Fla., ch. 8949(1921), § 76; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 77. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 21, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 77, which pertained to taxes and charges and derived from Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 78. - Ad valorem taxes.

- (1) Pursuant to Article VII, Sec. 9 of the State Constitution and the laws of the State of Florida, this municipality is hereby authorized, to levy ad valorem taxes on real and tangible personal property within the municipality.
- (2) The assessment and collection of municipal ad valorem taxes shall be performed by appropriate officers and in such manner as is prescribed by general law.
- (3) Pursuant to and in compliance with the laws of the State of Florida, the municipality may impose, by taxation and licenses or by user charges or fees authorized by ordinance, amounts of money which are necessary for the conduct of municipal government and may enforce their receipt and collection in the manner prescribed by law.

(Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 22, 7-5-16)

Sec. 79. - Regulatory fees.

Pursuant to the laws of the State of Florida, this municipality may levy reasonable business, professional, and occupational regulatory fees commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter.

(Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 23, 7-5-16)

Sec. 80. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 24, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 80, which pertained to Municipal borrowing; issuance of bonds and derived from Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 81. - Certification of funds for contracts, obligations, etc.

No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the city commission or be authorized by any officer of the city, unless the comptroller first certifies to the city commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose. The sum so certified shall hereafter be considered appropriated until the city is discharged from the contract, agreement or obligation.

(Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 25, 7-5-16)

Secs. 82—107. - Reserved.

Sec. 107A. - Community redevelopment areas.

The City of Fernandina Beach is prohibited from creating any more than two non-contiguous, community redevelopment areas (CRA), pursuant to F.S. ch. 163, part III. The City of Fernandina Beach is prohibited from creating any such CRA wherein the assessed value for ad valorem tax purposes of the real property contained within such CRA would exceed two percent (2%) of the total assessed value of all real property in the city at the time of creation of such CRA.

(Referendum of 4-9-91; Ord. No. 91-17, § 1, 9-17-91)

Secs. 108—119. - Reserved.

OFFICERS AND EMPLOYEES

Sec. 120. - Salaries and compensation.

The city commission shall fix, by ordinance, the salary or compensation of the city attorney, the department heads, the city manager and the city commission. The city manager shall fix the number and compensation of all other officers and employees. The salaries or compensation so fixed shall be uniform for like services in each grade of the city service, as the same shall be graded or classified by the city

manager, and approved by the city commission. All such salaries and rates of pay, with dates of employment and discharge, shall be immediately reported to the city clerk. All fees and moneys received or collected by officers and employees shall be immediately paid over to the city controller on the date of their receipt.

(Laws of Fla., ch. 8949(1921), § 120; Ord. No. 91-17, § 1, 9-17-91)

Sec. 121. - Oath of office.

Every officer of the city shall, before entering upon the duties of his office, take and subscribe to an oath or affirmation to be filed and kept in the office of the city clerk, which oath shall be in the form prescribed for state officers by the Constitution of the State.

(Laws of Fla., ch. 8949(1921), § 121; Ord. No. 91-17, § 1, 9-17-91)

Sec. 122. - Official bonds.

The city commission or city manager, in fixing the salary of any officer, clerk or employee shall determine whether or not such officer, clerk or employee shall give bond, and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Florida, the premiums on such bonds to be paid by the city. All such bonds shall be filed in the office of the city clerk.

(Laws of Fla., ch. 8949(1921), § 112; Ord. No. 91-17, § 1, 9-17-91)

ELECTIONS

Sec. 123. - Reserved.

Editor's note— Ord. No. [2016-11](#), § 26, adopted July 5, 2016, election of Nov. 8, 2016, repealed § 123, which pertained to prerequisites to voting; city commission responsible for conduct of elections and derived from Laws of Fla., ch. 8949(1921), § 123; Laws of Fla., ch. 9753(1923), § 1; Laws of Fla., ch. 59-1278, § 6; Laws of Fla., ch. 67-1380, § 1; Ord. No. 91-17, § 1, adopted Sept. 17, 1991.

Sec. 123A. - Reserved.

Editor's note— Ord. No. 2009-06, § 4, adopted March 7, 2009, and approved by the electorate on April 14, 2009, amended the Code by repealing former § 123A in its entirety. Former § 123A pertained to city elections, and derived from the Laws of Fla., ch. 67-1380, § 2; Ord. No. 740, adopted February 3, 1987; Ord. No. 91-17, adopted September 17, 1991.

Sec. 124. - Reserved.

Sec. 125. - Election arrangements; declaration of election results; appointment of inspectors.

The city commission shall make all necessary arrangements for holding all municipal elections, and shall declare the result thereof. Inspectors, poll workers and clerks of election shall be appointed by the city commission except that if the commission shall fail to appoint them at least seven (7) days before the

date of any election, the mayor may appoint them. In case of emergency, the mayor has the authority to appoint inspectors, poll workers and clerks of election.

(Laws of Fla., ch. 8949(1921), § 125; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2010-05, § 10, 2-2-10)

Secs. 125A—135. - Reserved.

Editor's note— Ord. No. 2010-05, § 11, adopted February 2, 2010, amended the Code by repealing former § 127 in its entirety. Former § 127 pertained to procedure, and derived from Ord. No. 91-17, adopted September 17, 1991.

GENERAL PROVISIONS

Sec. 136. - Administrative investigations.

The city commission shall authorize investigations by resolution. The city commission shall have the power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers, and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the mayor or the city manager and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the law of the state to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or produce any book or papers under his control relating to the matter under investigation. Nothing in this section should be construed to limit the charter officers' ability to inquire into matters under their respective areas of responsibility.

(Laws of Fla., ch. 8949(1921), § 136; Ord. No. 91-17, § 1, 9-17-91; Ord. No. 2010-05, § 12, 2-2-10)

Sec. 137. - Dedication of streets.

No street or alley hereinafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, under the care or control of the city, unless the dedication be accepted and confirmed by ordinance passed for such purpose.

(Laws of Fla., ch. 8949(1921), § 137; Ord. No. 91-17, § 1, 9-17-91)

Secs. 138—140. - Reserved.

Sec. 141. - General laws of state to apply.

All general laws of the state applicable to municipal corporations, now or which may hereafter be enacted, and which are not in conflict with the provisions of this Charter or with the ordinances and resolutions hereafter enacted by the city commission, shall be applicable to this city; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the city commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this Charter.

(Laws of Fla., ch. 8949(1921), § 141; Ord. No. 91-17, § 1, 9-17-91)

Sec. 142. - Reserved.

Sec. 143. - Savings clause.

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held to be unconstitutional or invalid.

(Laws of Fla., ch. 8949(1921), § 143; Ord. No. 91-17, § 1, 9-17-91)

Sec. 144. - When this Charter becomes effective.

The foregoing sections of this Charter shall take effect upon their ratification by a majority vote of the qualified electors of the said City of Fernandina Beach voting at a special election to be held in the City of Fernandina Beach.

(Laws of Fla., ch. 8949(1921), § 144; Ord. No. 91-17, § 1, 9-17-91; Ord. No. [2016-11](#), § 27, 7-5-16)