



**AGENDA
CHARTER REVIEW COMMITTEE
REGULAR MEETING
SEPTEMBER 28, 2020
3:00 PM
CITY COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

The Regular Charter Review Committee Meeting will be held as a VIRTUAL MEETING with board members and City staff participating through video conferencing. This virtual meeting will be broadcasted live for members of the public to view on the City of Fernandina Beach website (www.fbfl.us) and Channel 264 (Comcast only).

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. APPROVAL OF MINUTES**
 - 4.1 *The minutes for September 14, 2020, are presented for approval.*
- 5. OLD BUSINESS**
 - 5.1 **DISCUSSION & VOTE: ELECTION RUNOFFS:** *This item is placed on the agenda at the request of Members Bean and Lasserre.*
 - 5.2 **DISCUSSION & VOTE: CITIZEN INITIATIVE/REFERENDUM:** *This item is placed on the agenda at the request of Members Davis and Kosack.*
 - 5.3 **CHARTER REVIEW PROPOSED CHANGES TO DATE**
- 6. NEW BUSINESS**
- 7. PUBLIC COMMENT**
- 8. NEXT MEETING DATE**
- 9. ADJOURNMENT**

This will be conducted as a virtual meeting with restricted physical access. Written comments emailed to the Charter Review Committee (crc2020@fbfl.city) must be sent no later than 1 PM on September 28, 2020, and will be read aloud during the meeting. These comments shall have a maximum time allowance of 3 minutes or 400 words. Public comment may also be provided virtually through use of the Zoom Meeting link below, the phone number provided below, or in person at City Hall with strict restrictions to protect health and safety. Individuals wishing to provide live comments during the meeting must dial-in or connect via the Zoom Meeting link or phone number below no later than 2:50 PM on September 28, 2020, and will be called upon by their individual registered Zoom Meeting ID Account or by

the last-4 digits of their respective phone number. When called upon, please provide your name and home address prior to issuance of public comment. Please limit comment to 3 minutes.

Zoom Meeting Link:

<https://zoom.us/j/96260362345?pwd=b0g5RjBSaXBFMEZQUTZFU05vMG8wUT09>

(Users must have a functional microphone): **962 6036 2345** with Password: **CRC 0928**

Or

Zoom Phone Dial-In for Public Comment: + **1 646 558 8656** Meeting ID: **962 6036 2345** Password: **17948030**

If you must attend in person at City Hall (204 Ash Street), please arrive at City Hall no later than 2:50 PM to be counted and to complete a speaker form. You will be admitted into City Hall when it is your turn to make your public comments and must exit City Hall after your comments are made.

It is recommended that you wear a face mask when entering City Hall for your protection and the protection of others.

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations to participate in this program or activity should contact (904) 310-3115 or through the Florida Relay Services at 711 at least 24 hours in advance to request such accommodations. 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's Office (904) 310-3275.

1. CALL TO ORDER: The Charter Review Committee Regular Meeting was called to order at 3:00 pm.
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL: The following Committee members were present; Chairperson Arlene Filkoff, Vice Chair Bradley Bean, Committee Members Tammi Kosack, Jon Lasserre, Margaret Davis and Amy Bryan. Member Benjamin Morrison was absent. Others present were City Attorney Tammi Bach and Katie Newton serving as Recording Secretary.
- 4.1 APPROVAL OF MINUTES:
The minutes from August 17, 2020 were presented for approval.
A motion was made by Vice Chair Bean, seconded by Member Kosack, to approve the minutes as presented. The motion passed unanimously.
- 5.0 OLD BUSINESS
- 5.1 CHARTER REVIEW PROPOSED CHANGES TO DATE

Chair Filkoff asked for discussion regarding the current changes proposed.

Member Davis presented her view that in Section 8, “regulation” should change to “resolution”. Consensus was to make that change. She then discussed adding language into the oath.

A motion was made by Member Davis, seconded by Member Kosack, to add “of the United States and the State of Florida” after Constitutions and “including the Comprehensive Plan of the City of Fernandina Beach” to the oath. The motion passed, all in favor.

Member Davis then proposed to add a clause to Section 142 regarding Charter Amendment and Review, to include the state provision that a petition signed by 10% of the citizens may amend the Charter. There was discussion as to whether it was necessary to add this in because it exists in Chapter 166 of the Florida Statutes, Members Kosack, Bean, and Lasserre made points in favor of adding it, indicating that it could help with transparency to have how the document is amended within the document itself.

A motion was made by Member Davis, seconded by Member Kosack, to include Member Davis’s proposed changes in Section 142. The motion passed, all in favor.

Member Kosack wanted the Sections related to City Manager, City Attorney, and City Clerk to match formatting-wise. CA Bach agreed to look at it.

Member Lasserre commented that the clean version reads much better than the current version for clarity.
- 6.0 NEW BUSINESS
- 6.1 DISCUSSION: ELECTION RUNOFFS

Chair Filkoff introduced the topic that was requested to be on this agenda. The members discussed the data regarding voter turnout in Nassau County. They had different interpretations of the data and whether the voter turnout in August was significantly higher than previous City runoffs. There was concern that electing candidates in August would be a long time for “lame duck” Commissioners to be in office.

Member Bean suggested changing the deadline for candidates to register so that if more than 2 candidates were running for a seat, they would all face off in the August primary, with the 2 highest vote-getters moving

on to the November election. If only 2 candidates ran for a seat, then they would be on the November ballot. Each seat would have the “final” vote in November.

Member Kosack wants to make sure that voters see all candidates at the same time, and brought up candidate forums.

Member Davis complimented Member Bean’s idea but disagreed, preferring the December runoff since ranked-choice voting is not available in Florida.

Member Lasserre again advocated for plurality as a way of doing away with runoffs.

Member Bryan stated that the same conversation happened in 2007, and the committee was split then as well.

Chair Filkoff asked the members if they wanted to vote on a proposal at the next meeting, since there were only 6 members present. They agreed. They also asked CA Bach to look into an extension of the Committee into October in case an additional meeting was needed.

Election discussion resumed, with Chair Filkoff stating that the committee was looking for a way to eliminate a separate election for a runoff that did not involve a plurality. Members were concerned with the results of the recent August plurality vote were the votes were very close for the Supervisor of Elections office.

Member Kosack wanted to know whether this was a cost-cutting or turnout measure. Member Bean stated that the turnout was the main issue, and head-to-head in the general November election provides for the most turnout.

Chair Filkoff expressed that some community members felt like the August primary was the “Republican” primary because of the lack of candidates on the Democratic Party side in Nassau County and was concerned that some may not turn out because they don’t realize that they can vote. Member Lasserre stated that was an issue of advertising with the Supervisor of Elections.

Chair Filkoff directed Ms. Newton to summarize the discussion for Member Morrison so he could be prepared to vote at the next meeting. Member Lasserre agreed to draft changes to present for the next meeting.

6.2 DISCUSSION: CITIZEN INITIATIVE

Member Davis discussed her proposed language, included in the packet, that gives citizens the right to put forth a new initiative. Member Kosack commented that it looked similar to the model charter language and she would be for it as a step toward modernization.

Member Lasserre asked why it was needed if it wasn’t often used in other cities? Member Kosack stated it gives citizens an option, and Member Davis stated that citizens with a direct democracy provision in their Charter are generally happier with their government and more interested in complying with local laws, per polling data.

A vote will be taken at the next meeting.

7.1 PUBLIC COMMENT:

There were no members of the public wishing to make comments.

8. NEXT MEETING DATE:

The next meeting is scheduled for September 28 at 3:00pm, which was changes from September 21 to allow for time to draft election language and ensure proper notice.

Member Bean stated that the Amelia Island Sunrise Rotary Club was interested in having a committee member speak at an upcoming meeting.

9. ADJOURNMENT: There being no further business to come before the Charter Review Committee, the meeting was adjourned at **4:52 pm**.

Recording Secretary
Katie Newton

Chairperson
Arlene Filkoff

Section 9 - Created; election by ~~groups~~ seats, number; term. (1 of 2)

Current Language

- 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.

Proposed Language

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.

(a) There is hereby created a City Commission to consist of five (5) ~~electors~~ seats of the City of Fernandina Beach, and elected at large by the qualified voters of the City of Fernandina Beach. ~~The designation of seats is not used or construed to divide the City into Commission districts for purposes of qualification, election, or representation.~~

~~(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.~~

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Section 9 - Created; election by ~~groups~~ seats; number; term. (2 of 2)

Current Language

- (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.

Proposed Language

- (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:~~ Seats 1, 2, and 3 were elected in 2020. Seats 4 and 5 are elected in 2022.

~~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 seats ~~shall be~~ are elected every four (4) years for a term of four (4) years.

- (c) If there are several candidates ~~in each seeking the same seat group,~~ then the candidate receiving a majority vote ~~shall be held is~~ is elected for that ~~seat. group. provided, However, that~~ seat. In the event the no candidate shall ~~not~~ not receives a majority vote, then and in that event the two (2) candidates receiving the largest or highest number of votes shall must have their names placed on an election ballot unless one (1) of the two (2) candidates to be ~~elected shall~~ is withdraws from the race, then and in that event no run off or second election shall will be called, and the remaining candidate shall be ~~declared is~~ declared is elected. ~~in a run off or second election and~~ in a run off or second election, the candidate receiving the largest or highest number of votes shall be held is elected for that seat. 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 can qualify in for more than one (1) group seat in any general election or run off or second election in any one election year.~~
- (d) City elections ~~shall be~~ are 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~~ has the authority to call for special elections at any time ~~not on the same dates~~ other than as the City general elections. ~~for special elections, ballot questions and referenda.~~

Rationale – Section 9 Changes

- Clean up legalese; change “groups” to “seats” at large, remove redundant clauses.
- Committee recommends that Rank Choice Voting be investigated and considered by the City Commission when the state approves voting software that can accommodate Rank Choice Voting. The City of Sarasota approved Rank Choice Voting by referendum charter change in 2007 but cannot use this method since state has not approved and certified voting equipment to tally votes for this method.

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 and in compliance with this Section. 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.

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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.

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- (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 two (2) qualified candidates in a group, then the election for that group will be held at the general election in conjunction with county, state, and federal elections.~~

~~—If there are several more than two (2) qualified candidates in each a group, then the an election for that group will be held in conjunction with the primary election. The two (2) candidates at the primary election who receive the receiving a majority most votes will advance~~

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~~with the election for that group to be held at the general election in conjunction with county, state, and federal elections. 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)

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

If there are two (2) qualified candidates in a group, then the election for that group will be held at the general election in conjunction with county, state, and federal elections.

If there are more than two (2) qualified candidates in a group, then an election for that group will be held in conjunction with the primary election. The two (2) candidates at the primary election who receive the most votes will advance with the election for that group to be held at the general election in conjunction with county, state, and federal elections.

- (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.

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VOTER TURNOUT DATA FROM NASSAU COUNTY SUPERVISOR OF ELECTIONS WEBSITE

Presidential Election Years **bolded**

Midterm Election Years *italicized*

YEAR	FB April	FB May runoff	Nass Co August Primary	Nass Co Sept Primary	FB and/or Gen Nov	FB Dec runoff
2006				26%		
2008	12%		28%		81%	
2009	19%	16%				
<i>2010</i>	<i>16%</i>	<i>15%</i>	<i>28%</i>			
2011	Moved FB to Nov				25%	20%
2012			32%		70% (FB)	
2013					19%	20%
<i>2014</i>			<i>20%</i>		<i>56%</i>	28%
2015					20%	18%
2016			32%		77%	
2017					25%	24%
<i>2018</i>			<i>31%</i>		<i>63%</i>	
AVG					22.25% FB excluding midterms	
AVG	15.66%	15.5%	27.25% Nass '06-'18		34.66% FB '11-'18 EXCLUDING Pres Yrs	22%
AVG					48.44% '08-'18	

The Elections No One Cares About

BY: [Alan Greenblatt](#) | August 11, 2015

Seattle's City Council is undergoing some major changes. Starting with this year's elections, all but two of the seats will be elected by district, with only two "at-large" seats still representing the city as a whole. Thanks to retirements and a primary defeat of an incumbent, at least four of the nine council seats will be held by newcomers next year.

But how much do Seattle's residents care about all these changes? Not much, if last week's primary election is any indication. Voter turnout didn't surpass 25 percent in any district. In some, it was well under 20 percent.

It's a familiar story. Most municipal elections are held during odd-numbered years and months away from November. Only five states (Arkansas, Kentucky, Nebraska, Oregon and Rhode Island) hold all their municipal elections in November of even-numbered years. When held on stand-alone dates, with no state or federal races that typically boost turnout, most people don't show up to cast their vote -- either because they don't care enough or because they aren't even aware there's an election.

While turnout for presidential elections is considered low when it dips below 60 percent and midterm elections less than 40 percent, local elections that fail to draw more than 10 or 20 percent of voters are common. Voter turnout for local elections has historically lagged behind state and federal races, but [recent results](#) suggest it's slowly becoming even worse.

The habit of holding local elections on separate dates has "outlived its usefulness," said Melissa Marschall, who leads the Local Elections in America Project at Rice University. "It doesn't make sense."

Some state officials agree. Last month, the California Assembly approved a bill that would force localities with low turnout -- less than 25 percent on average over four elections -- to move their elections so that they overlap with state or federal contests. (It's still awaiting action in the state Senate.) In June, Kansas Gov. Sam Brownback signed a law moving local elections from the spring to the fall of odd-numbered years.

"There's a trend across the country to move toward concurrent elections," said Curtis Wood, a political scientist at the University of Kansas. "I'm hoping the changes we make here in Kansas will make the outcomes more representative of the people."

But would moving municipal elections actually boost turnout, or are Americans just too busy to tune into local politics?

[Research indicates](#) that shifting mayoral elections to presidential years results in an 18.5 percentage point jump in turnout, while changing to November of a midterm election yields an 8.7-point average increase.

Local governments started holding their elections separately from state and federal ones during the Progressive Era of the early 20th century, according to Wood. The hope was that this would keep state and federal elections from overshadowing the mostly nonpartisan local ones. That's still an argument being used today.

"Forcing our local campaigns to compete with state and federal races for money, for volunteers, for voter attention, I think is the wrong way," said California state Rep. David Hadley in arguing against the proposal to hold elections there concurrently.

But focusing attention on local races may not have been the only motivation for keeping those elections separate. According to Marschall, "the original reason was really to decrease the influence of immigrant voting and break the political machines. They thought it would be more difficult for non-English speakers to turn out, and it proved to be really effective."

In contemporary times, it remains the case that only a small subset of voters -- who often tend to be whiter, wealthier and older -- vote during stand-alone municipal elections. That allows interest groups to "capture" local elections, Marschall said. School districts, for example, that hold off-cycle elections are more likely to result in union-friendly candidates winning, and thus pay experienced teachers 3 percent more than districts that hold

concurrent elections, according to *Timing and Turnout: How Off-Cycle Elections Favor Organized Groups*, a 2014 book by Berkeley political scientist Sarah Anzia.

L.A.'s turnout has gotten so bad that the City Council is exploring instituting a lottery system to offer cash prizes to some voters. And in July, a group called the Southwest Voter Registration Education Project, which seeks to boost Latino voting, paid \$25,000 to a Los Angeles man for voting. (California and Alaska are the only states that allow such lotteries.)

There's no doubt about it. Holding concurrent elections is bound to increase turnout, even if many citizens drawn to vote for president or governor might skip the city council races. But a bigger selling point for cities and counties to switch, Marschall said, is financial: Holding elections less frequently should save them money.

This article was printed from: <https://www.governing.com/topics/elections/gov-moving-municipal-elections-concurrent.html>

PROPOSED NEW LANGUAGE PROVIDING INITIATIVE PETITION RIGHT

Section [141] - Initiative.

- (a) *Power to propose initiatives.* ~~In addition to their power to petition for the amendment of this Charter pursuant to Florida Statute 166.031(a), t~~The qualified **registered** voters of the City have the power to propose ordinances (which can include amending existing ordinances) to the City Commission provided that such power does not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees. If the City Commission fails to adopt the proposed ordinance or an agreeable modification thereof **without any change in substance**, the voters have the power to adopt or reject it at a City election.
- (b) *Commencement of proceedings.* Any five (5) qualified **registered** voters may commence an initiative proceeding by filing an affidavit with the City Clerk stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance to be voted upon. Promptly after the affidavit of the petitioners' committee is filed, the City Clerk ~~may~~ **will**, at the committee's request and expense, issue the appropriate petition blanks to the petitioners' committee.
- (c) *Petitions.*
- (1) *Number of signatures.* Initiative petitions must be signed by qualified **registered** voters of the City equal in number to at least ten (10) percent of the total number of qualified voters registered to vote in the last regular City election.
 - (2) *Form and content.* All papers of a petition must be uniform in size and style and assembled as one instrument for filing. Each signature must be executed by hand in ink or indelible pencil and shall be followed by the address of the person signing. Petitions must contain or have attached thereto throughout their circulation, the full text of the ordinance being proposed.
 - (3) *Affidavit of circulator.* When filed, each paper of a petition must have attached to it an affidavit executed by its circulator stating that the circulator personally circulated the paper, giving the number of signatures thereon, and stating that all the signatures were affixed in the circulator's presence, that the circulator believes them to be genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance being proposed.

(d) *Procedure after filing.*

- (1) *Certificate of City Clerk; amendment.* Within twenty (20) days after the petition is filed, the City Clerk will complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and promptly send a copy of the certificate to the petitioners' committee by registered mail. The only grounds for insufficiency are failure to comply with subsection (c) of this section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the City Clerk within two (2) days after receiving the copy of the City Clerk's certificate and files a supplementary petition with additional signatures within ten (10) days after receiving the copy of such certificate. The supplementary petition must comply with the requirements of ~~subsections~~ paragraphs (2) and (3) of subsection (c) above and within five (5) days after it is filed, the City Clerk will complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request City Commission review under paragraph (2) below within the time required, the City Clerk will promptly present their certificate to the City Commission and the certificate will then be a final determination as to the sufficiency of the petition. The City Clerk will be paid by the petitioners' committee any amount charged by the Nassau County Supervisor of Elections for verification of the names on the petition.
- (2) *Commission review.* If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it, or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the City Commission. The City Commission will review the certificate at its next ~~available~~ meeting following the filing of such request and approve or disapprove it, and the City Commission's determination is then the final determination as to the sufficiency of the petition.
- (3) *Court review; new petition.* A final determination as to the sufficiency of a petition will be subject to court review. A final determination of insufficiency, even if sustained upon court review, does not prejudice the filing of a new petition for the same purpose.

(e) *Action ~~of~~ on petitions.*

- 1) *Action by Commission.* When an initiative petition has been finally determined sufficient, the City Commission will promptly consider the proposed initiative ordinance. If the City Commission fails to adopt a proposed initiative ordinance without any change in substance within sixty

(60) days after the date the petition was determined sufficient, the Commission will submit the proposed ordinance to the voters of the City.

- 2) *Submission to voters.* The vote by the electorate of a proposed ordinance will be held at the next regular City election, but not less than ninety (90) days from the date that the petition was determined sufficient. The City Commission in its discretion may provide for a special election at an earlier date than the next regular election provided that the date of the special election is at least ninety (90) days after the date that the petition was determined sufficient. Copies of the proposed ordinance will be made available at the polls.
 - 3) *Withdrawal of petitions.* An initiative petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the City by filing with the City Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request, the petition has no further force or effect and all proceedings are thereon terminated.
- (f) *Results of election.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, the ordinance is considered adopted upon certification of the election results and will be treated in all respects in the same manner as ordinances of the same kind adopted by the City Commission; provided, however, that the same shall not be amended or repealed except by a vote of a supermajority of the Commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.



Citizens' Guide to Initiative & Referendum



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Introduction

Citizens in one-in-four New Jersey municipalities have the right to put a proposal on the ballot for a direct vote by the people as well as to call a vote of town residents in order to repeal an ordinance adopted by the local government. This powerful tool of direct democracy, called initiative, is designed to give citizens a voice in government when local elected officials are unresponsive or overly influenced by special interests.

Initiative was devised during the progressive era of the early twentieth century when the traditional notion of representative democracy was deemed insufficient because the institutions of government were thought to have been hijacked by big money and large economic interests. They remain an excellent way for citizens to constructively participate and see their proposals enacted into law.

On the local level, initiative campaigns do not require large amounts of money; they just require interested citizens who are willing to dedicate some of their time to making their community better. After all, local governments make critical decisions that help determine quality of life including whether property taxes are affordable, whether children are safe from crime and whether open space is preserved.

In New Jersey, citizens have not taken full advantage of the right to initiative. While, in most cases, these procedures should probably be **used as a last resort after more traditional techniques such as contacting ones elected officials and making presentations at local government meetings have been tried**, they are proven tools for realizing policy goals and making elected officials more responsive.

Often just gathering the signatures required to place an initiative on the ballot is sufficient to force local governments to act. For example, in Hamilton, citizens gathered 4,000 signatures to put an ordinance on the ballot to sever the link between political contributions and the awarding of professional service contracts. The council and mayor, which had been resisting this reform, turned around and adopted it.

This handbook is designed to demystify the initiative process and provide instructions for citizens so that they can use these powerful tools. It describes how The Citizens Campaign will get you started with what you need and tips for successful initiatives.

Although this handbook focuses “Faulkner Act” municipalities, where citizens have the right to put a proposal on the ballot for a direct vote by the community as well as

to call a vote of town residents in order to repeal an ordinance adopted by the local government, initiative can also be a valuable tool in non-Faulkner Act towns. We've provided a list of Faulkner Act municipalities and more information about non-Faulkner Act municipalities.

What is Initiative?

Initiative is the right of voters to propose any ordinance and adopt or reject the same at the polls¹, thereby giving ordinary citizens the right to a direct vote of the people on changes they propose within their communities.

Such direct democratic power is guaranteed to all registered voters in municipalities with initiative; it provides the right to submit a petition to be placed on the ballot to local government concerning legislative matters such as property taxes and use of public lands.

In order for the petition to be valid, a threshold number of signatures of registered voters must be gathered-- a number equaling at least 10% of the turn-out in the most recent state assembly election. The proposed ordinance is then reviewed by the local council and is either adopted or placed on the ballot to be voted on by the community at the next general election.

Step-by-Step Guide to the Initiative Process

Creating an Initiative Petition

Whether proposing a ban on political fundraising on public property, the creation of a new civic center in your neighborhood or the building of sidewalks in your neighborhood, you have the right to create a petition to gather community support:

Step One: Choose a Committee of Petitioners

A Committee of Petitioners consists of five voters who are responsible for (1) gathering the required number of voter signatures; (2) presenting the petition to the

¹ N.J.S.A. 40:69A-184

county clerk; and (3) ultimately, formally withdrawing the petition if deemed appropriate².

For example, if you were to create a petition calling for public contracting reform through a “pay-to-play” reform law, you would first select a committee of five registered voters. Ideally, each member should represent a significant constituency in the community in order to reach the broadest range of citizens. Once you have your committee together, contact The Citizens Campaign headquarters for a legally drafted petition.

Step Two: Drafting the Petition

The following are tips for drafting a petition:

- Initiative petitions must concern matters that are within the municipality’s control, are not preempted by state or federal law, and are not otherwise exempt from initiative by statute, or law³.
- No zoning ordinance and no amendment or revision to any zoning ordinance is permitted to be submitted or adopted by initiative⁴; this exemption extends to ordinances relating to the master or redevelopment plans of a municipality⁵.
- Initiative petitions may only be submitted on legislative matters, not administrative matters; a legislative matter affects a substantive change in the governance of a community, an administrative matter is more temporal, procedural or executive in nature⁶.
- Remember, a petition is a legal document. A copy of the ordinance **MUST BE** attached to each petition. Follow Title 40 (40:69A-186) for more details on drafting a petition.
- The Citizens Campaign (732-548-9798) has model petitions that you can use to base your petition.

² N.J.S.A. 40:69A-186

³ Cuprowski v. City of Jersey City, 101 N.J. Super. 15, 23 (1968)

⁴ N.J.S.A. 40:55D-62

⁵ Millennium Towers v. Municipal Council, 343 N.J. Super. 327 (2001)

⁶ Cuprowski v. City of Jersey City

Step Three: Gather Voter Signatures

New Jersey requires local initiative petitions to contain a number of signatures of registered voters equaling at least 10 percent of the turn-out in the most recent state assembly election. In other words, if 4,000 people in a particular municipality voted in the most recent state assembly election, 400 signatures would be required. Gathering this threshold percentage of signatures places a proposed ordinance on the ballot in the next general election, unless the Council enacts it. Gathering the signatures of registered voters equaling at least 15% of the turn-out of the most recent state assembly election triggers a special election. (In most, cases, it is preferable to have a ballot initiative voted on in the general election because turn-out tends to be higher than in a special election, and higher turn-out usually benefits proposals crafted with the public interest in mind.)

To determine the minimum number of signatures your petition would require, contact the Board of Elections to obtain the total number of votes cast in your municipality's most recent General Assembly election.

Once you've determined your signature 'goal,' each of the five Committee of Petitioners members and other interested citizens can circulate petitions for signing. When gathering signatures, be sure to keep the following rules in mind:

- Signatures **MUST** appear legible and in ink or indelible pencil (it is best to provide pens to avoid invalid signatures)
- Signatures **MUST** be of only voters registered in the municipality in which the petition is filed (be sure to verify this with each signer to avoid invalid signatures)
- Signatures **MUST** be accompanied by voters home address (without an address, the signature is considered invalid and cannot be counted)

Although not all signatures need to be on the same sheet, a Committee of Petitioners member or volunteer helper must attach an affidavit to each sheet on which he or she gathers signatures, attesting (1) that the signed member personally brought the petition around for signing, (2) that each of the voters on the petition signed it in front of him or her, and (3) that he or she believes each signature to be the genuine signature of the person the signer claimed to be.

A completed signature sheet typically looks like this:

Signature	Name	Address
1. <u>George Dunn</u>	George Dunn	123 Main Street, Lakewood, NJ 08701
2. <u>Karl Goldstein</u>	Karl Goldstein	33 Lake #2, Lakewood, NJ 08701
3. <u>Betsy Jacobs</u>	Betsy Jacobs	9 Ridgeway Dr., Lakewood, NJ 08701
4. <u>Sue Ortiz</u>	Sue Ortiz	58 Chestnut, Lakewood, NJ 08701
5. <u>Dan Williams</u>	Dan Williams	1244 Bath St. #3, Lakewood, NJ 08701

After gathering all necessary signatures, the petition—along with ALL other applicable papers including signed affidavits and signature sheets—is ready to be submitted to the county clerk.

Step Four: File the Petition

The next step is to submit all papers concerning the petition for review by the municipal clerk. This is done by one or more of the Committee of Petitioners members in a single filing and can be done in person or by mail. To avoid delays, be certain that all affidavits are attached and that you have obtained the minimum number of valid signatures.

The clerk then has 20 days to examine the filed petition and see if it fulfills all the requirements, specifically whether the affidavits are included and there are enough valid signatures. The clerk will then “certify” the petition and submit a certificate of his findings to the local council at the next scheduled meeting.

If the clerk finds that the petition does in fact meet all the requirements, the certified petition proceeds to the next step in the process.

If, however, the clerk finds the petition unacceptable, i.e. lacking the needed number of valid signatures, the clerk’s certificate will state why the petition was unacceptable and the clerk is required by law to immediately communicate these details to at least two Committee of Petitioners members⁷. The petitioners are then permitted to amend the initiative petition as detailed below.

⁷ N.J.S.A. 40:69A-187

Step Five: Amend & Resubmit the Petition

Once the clerk has notified at least two Committee members and explained why the petition was deemed unacceptable, the Committee of Petitioners has 10 days to amend and resubmit the initiative.

Say the clerk found that our petition had an inadequate number of valid signatures because the names and addresses provided did not in fact correlate in 56 cases. It is now up to the Committee to gather another 56 valid signatures supporting the petition. If in 10 days, the five members garner enough signatures, they must file a “supplementary petition” that consists of new papers with the new signatures and any relevant affidavits to the county clerk.

Once the supplementary petition is filed, the clerk then has five days to review the amendments and again submit one of two certificates. If the petition is again rejected, the clerk will immediately notify the Committee of Petitioners with details as to why. At this point, the initiative petition may not be reviewed or amended further. However, this does not mean that a new petition on the same subject cannot be filed at a later date; it does suggest, however, that you should evaluate the problem and rectify it before submitting the petition again.

If the petition is accepted, it will then be officially presented to the Municipal Council.

Step Six: Submit the Ordinance to the Local Council

By law, the clerk is required to give all successful petitions and successfully amended petitions to the council immediately. The initiative ordinance is then “read” by the council, so that a second hearing at which the public may speak can be scheduled⁸.

Step Seven: Public Hearing of the Ordinance

Often, the second hearing is the public’s—and certainly the Committee’s—prime lobbying moment. It is here that community members exercise their right to discuss openly and freely all aspects of the ordinance and its effects on the community and on their lives.

⁸ N.J.S.A. 40:69A-190

In the case of our child and traffic safety proposal, we would encourage parents, whose children attend Kellogg Marshall Elementary School to be *present* and argue for the necessity for the additional six street signs.

Whatever proposal you may be advocating, there are a few tips to keep in mind when appearing before the mayor, council and fellow citizens in a public hearing:

- **Know the rules.** Request in advance a copy of the procedures for public hearings, which can be obtained from the municipal clerk's office. Take particular notice of any sign-in requirements and speaking time limits.
- **Be prepared.** Write your comments in advance and recite them until you feel confident with them. Speaking before a large audience may seem intimidating and the more practiced and prepared you are, the better you will perform. It is also good to review possible objections to the ordinance and prepare a response.
- **Be concise.** Time limits, if relevant, will be enforced. Even without time limits, however, you should strive to make your point in roughly five minutes to keep the attention and interest of the audience.
- **Dress appropriately.** Most often, business or business casual attire is preferred. Because you *are* addressing the council, who will most likely be in suits, you should aim to look professional. Follow the old adage, "Dress for success."
- **Be early.** Arriving at least 15 minutes early will give you ample time to introduce yourself to the council, sign-in if necessary, and familiarize yourself with the agenda. It will also prove invaluable time to relax and get acquainted with your fellow citizens.
- **Be respectful.** Shouting and yelling will get you nowhere. To get respect, you must be respectful and polite, so it is best to begin by thanking the council and your fellow constituents for their time and making your point without being argumentative or attacking any persons or beliefs. This is your chance to sway the audience, so just remember you catch more bees with honey.
- **Realize you are on record.** Public hearings are just that, public, so expect to see reporters in the seats jotting notes. It is entirely feasible that you may be quoted in the local papers or filmed for local news broadcasts. And remember,

this is your chance to reach a broader audience, so bear this in mind when drafting your comments and preparing for the hearing.

After the community has had an opportunity to express their opinions in a public hearing, and still the council has not passed the ordinance within 20 days of its being certified by the clerk, the ordinance is then placed on the local ballot.

Step Eight: Referendum: The Public Vote on Ordinance

The final step in enacting an initiative ordinance is to place the ordinance on the municipality's next general election ballot at which time, the community's voting population will be able to vote for *or* against the ordinance.

In order to time the proposed ordinance so it appears on the November general election ballot, the petition needs to be submitted to the municipal clerk by mid-July. This provides sufficient time for all the preliminary steps, including a public hearing and the possibility of the need to correct the petition for inadequacies. It is important to check with the municipal clerk and your own legal advisers to establish the precise date for submission.

All ballots, regardless of election type, appear like this:

To vote upon the public question printed below, if in favor thereof mark a cross (X) or plus (+) or check (✓) in the square at the left of the word Yes, and if opposed thereto mark a cross (X) or plus (+) or check (✓) in the square to the left of the word No.

	Yes.	"Shall the ordinance submitted by initiative petition providing for the posting of public contracting reform commonly referred to as "pay-to-play reform" be enacted into law? This law would limit professional contributions to political parties...."
	No.	

If the majority of those voting on the proposed ordinance vote in favor of adopting it, the ordinance becomes a valid and binding ordinance of the municipality and goes

into effect within 20 days. Once adopted, the ordinance cannot be amended or repealed within three years of its adoption date, unless by vote of the people.

If the majority votes to against adopting the ordinance, it is not passed and has no binding. Citizens, however, are permitted to submit another initiative petition on the same issue at any time.

Timing Your Initiative

Like many life-changing decisions, timing is everything. Initiative petitions are no exception. When planning your initiative, it is vital to take into account scheduling and always, always allow ample time for amendments and delays.

Say you wanted to enact a Citizens Campaign model reform law. In order to do so, we should begin preparing in January so that it may be included on the November ballot. (If a special election were necessary, we would have to begin even sooner and be sure there was not one already held within six months.) The following is a sample timeline for an initiative aiming for the November general election.

	January	Feb thru June	July	Aug - Octobe	Nov
Gather all 5 members of the Committee of Petitioners, Finalize petition provided by the Citizens Campaign					
Contact County Board of Elections for minimum number of valid signatures required for your town					
Copy petitions and circulate among volunteers to gather signatures					
Last chance for Committee of Petitioners to file all notarized petitions					
Clerk has to verify that all signatures are genuine and all addresses belong to voters registered in the municipality					

Clerk submits certificate to accept the petitions to the council for the ordinance's first read at the next council meeting -- OR -- submits a detailed rejection to at least two Committee of Petitioners.					
Committee of Petitioners amend petition, i.e. gather more valid signatures to make up for the rejected ones					
Committee of Petitioners sign all affidavits (if necessary) and file supplementary petitions to county clerk					
Clerk has five days to review amended petition					
Clerk issues certificate of a successful petition and gives it to the Council to set a date for a first read —OR— Rejects petition and notifies Committee of the problem; Petition ends					
First reading & with public hearing held.					
Final day to withdraw petition					
Council passes ordinance, it goes into effect – OR – rejects it so it goes to the ballot in the next general election					
Ordinance published in at least two newspapers circulated in municipality					
Ordinance voted on in general election, Committee of Petitioners Get-Out-the-Vote					
If Voters Decide "Yes" the ordinance gets enacted					

Notice that if you were to need a special election, or would like more time to gather signatures, you should begin the process as early as possible. You should also take into consideration the date you would like the ordinance enacted and may want to work backward to determine your timeline, allowing enough time for scheduled holidays and possible mishaps along the way.

If timing is tight, you may run into a problem if the original petition is rejected, so be certain to try and avoid this by planning ahead.

For example, if we fell behind our timeline and did not submit the original petition until the July deadline, and needed to amend it, we would have missed getting our

ordinance on the November ballot. We would then need to hold special election, since the next general one would be more than 90 days away.

This would pose a major problem, since we only gathered enough signatures to cover 10 percent of the voting population and special elections require 15 percent. We may have realized this during the ten-day amendment window, but we may not have gathered enough signatures in that limited time. So, as you can see, a little bit of petition planning goes a long way.

Timing Tips

Here are a few more timing points to consider:

- **Make a realistic timeline.** After the Committee of Petitioners has been selected, sit down and devise a realistic timeline with mini-deadlines to follow. By remaining realistic, i.e. not expecting to gather all signatures in one day, the petitioners will have an easier time reaching the mini-deadlines, such as gathering 200 signatures by the fifth day, and filing the petition on time.
- **Allot extra time for delays and amendments.** Because there is always the chance that the clerk may find your initial petition defective, be sure to allow plenty of time to amend and resubmit the petition.
- **Have petitions ready in advance.** Initiative petitions can be drafted at least a month before being circulated, so use this time to finalize the petition and make copies. Referenda petitions are on tight deadlines, so if you are aware that the ordinance you wish to challenge may pass, have the petition ready well ahead of time so you may circulate it immediately after the ordinance's passage.
- **Plan ahead.** If aiming to have an ordinance appear on a general election ballot, time your petition submittal accordingly. This means, submitting the signatures by mid-July.

Withdrawing an Initiative

After an initiative petition has been submitted to the council, it may be withdrawn so long as the Committee of Petitioners files a paper requesting that the petition be

withdrawn signed by four of the five members. This request must be made within 10 days of the council's decision to either pass the ordinance or put it to public vote.

Once a petition request has been correctly submitted, the ordinance is withdrawn immediately and the original petition ceases to have any force or effect.

Although it is not required that the Committee of Petitioners give a specific reason, possible reasons for requesting to withdraw a petition may include:

- **Insufficient or incorrect information.** If you file an initiative to rectify a problem, and later find that the basis for or the wording of your proposed ordinance was incorrect, you may wish to withdraw the petition and redraft the petition with the correct information.
- **Amendment to the ordinance.** Amending one ordinance may save the need for future initiative petitions, and would be grounds for withdrawal. This withdrawal, then, would prevent our having to file a separate petition.
- **Schedule conflict.** As we now know, timing a petition is everything. So, if we were to file our street sign petition late and then require a special election to be held, we may wish to withdraw the petition and resubmit it when it could be included in the general election so as to avoid having to garner additional signatures.
- **Similar ordinance introduced by the council.** If during the course of an initiative petition's review an ordinance similar to that in the initiative were to be passed by the council, you have several things to consider. Does the council's version call for the exact same things as yours? Is the council's version weaker than yours? You could either withdraw the petition or continue with your initiative to override the council's version. The Citizens Campaign offers strategy support in these situations.

Tips and Strategies for Success

The following outlines tips for conducting successful initiative campaigns. Included are the keys to gathering a sufficient number of valid signatures, how to best address questions of timing, how to find expert legal advice and comply for the technical

requirements, and strategies for insuring your side prevails once an initiative is on the ballot.

Gathering a Sufficient Number of Valid Signatures

The most labor-intensive part of an initiative campaign is gathering sufficient signatures to insure that your proposal qualifies for the ballot.

As a general rule of thumb, it is important to **obtain at least 20% more** signatures than are required. This is because some of the signatures are likely to be ruled invalid because signers are not registered to vote or have not provided a correct address.

The best place to gather signatures are central locations, which are frequented by substantial numbers of adult town residents. Supermarkets and train stations may be good locations but you want to ask people if they are a registered voter in your municipality. Another good way to gather signatures is to go door-to-door in your neighborhood. This method of signature-gathering becomes even more efficient, if you have a street list of current voters which can usually be purchased from the municipal clerk.

For planning purposes, gathering signatures at central locations yields roughly 15 per hour, while gathering them door-to-door yields about 8 per hour. (Of course, door-to-door is likely to yield a higher percentage of valid signatures especially if one uses a street list.) These estimates can be adjusted once signature-gathering is underway. For example, a petition on an issue in which there is already a lot of strong community feeling is likely to yield signatures at a slightly faster rate.

Gain support from and utilize the membership of local civic organizations such as the League of Women Voters, AARP, PTO/PTA's, parents involved in their child's sports activities, and local activist groups. It is important to provide training to all volunteer petitioners. The training should include tips for getting the maximum number of signatures and for ensuring that the highest possible percentage of signatures obtained are valid. Some suggestions for increasing this percentage are found below:

- **Ask all citizens if they are registered to vote in your municipality.** Before allowing people to sign any petition, verify that they are registered voters in your municipality; this will stop out-of-town and unregistered residents from mistakenly signing the petition.

- **Stress the importance of providing the real address.** Assure signers that their address will not be used for any other purpose other than to verify their signing eligibility and residency within the municipality.

Recruiting Legal Help & Complying with Technical Requirements

There are key stages in the initiative process in which it is greatly beneficial to have expert legal assistance. These include reviewing the petition language, insuring that all the technical requirements for filing the petition and required attachments are met, challenging any of the rulings of the clerk and the council if deemed legally wrong, and helping to negotiate specific ordinance language if the council decides to adopt the ordinance, rather than have it go to the ballot, and wants certain minor changes. If your group does not have access to volunteer legal assistance, depending on the content of the proposed ordinance, pro bono legal help may be provided by the Center for Civic Responsibility.

Below are some tips for insuring that required attachments are filed correctly

Correct Attachments

It is crucial to include ALL attachments and papers when filing your petition. Because all papers are submitted in a single filing, however, it is easy to mistakenly neglect to include vital papers, such as signature sheets or affidavits. Failure to submit all relevant papers will result in the petition's rejection. To avoid such consequences, keep these tips in mind:

- **Sign affidavits immediately.** Each signature sheet requires the signed affidavit of the petitioner who gathered the signatures. Because many sheets can be simultaneously distributed, have each petitioner sign the required affidavits for his or her sheets immediately after they are filled. Delays may lead to their forgetting to do so.
- **Assign petition gatherer.** Reducing the number of people involved in collecting the papers can dramatically reduce the potential for a mistake. Select one Committee member to be the official 'gatherer' responsible for collecting all petition papers, including signature sheets and affidavits. The member will also

review each sheet to ensure that there are enough signatures and that all affidavits are attached.

- **Assign petition filer.** This Committee member will act as the gatherer's second pair of eyes. He or she will double check the petition papers to ensure nothing is missing. He or she will then assemble all the papers together and file the petition with the county clerk.

Winning when Initiatives Reach the Ballot (the “Referendum”)

It is tempting to rest once your initiative is placed on the ballot in the form of a referendum. However, there are proactive steps you can take to increase your chances of success. They are summarized below:

- **Generate Editorial Support:** Arrange a meeting with the editorial page editors of the newspapers that cover your municipality and make a solid case for why the newspaper should support your proposal. A positive editorial can help move voters in your direction.
- **Win Organization Endorsements:** For any proposed initiative, there are usually organizations that are likely supporters. For example, if the proposed initiative calls for an increase in open space, town environmental groups are excellent targets. Ask for an endorsement and for the group to publicize the endorsement by issuing a media release and by informing all their members.
- **Foster positive word of mouth:** Ask any supporter to contact 10 of their friends and neighbors and urge them to vote for the proposal.
- **Generate positive e-mail activity:** Send out an e-mail alert asking briefly explaining the proposal and ask not only for the person's vote, but for them to forward your message to anyone on their e-mail list who is a town resident.
- **Poll Greet on Election Day:** Recruit and train volunteers to greet voters and polling places on Election Day and urge them to support the proposal. Greeters need to stand 100 feet from the polls, but at many polling places this restriction does not preclude greeting efforts. The greeters should have an information sheet to give interested voters.

Faulkner Act Municipalities

* Towns where citizens successfully conducted an initiative to pass a Citizens Campaign model law.

Atlantic County

Atlantic City
Brigantine City
Estell Manor City
Galloway Township

Bergen County

Fair Lawn Borough
Mahwah Township
Ridgewood Village
River Vale Township
Saddle Brook Township
Teaneck Township
Washington Township

Burlington County

Burlington City
Burlington Township
Delran Township
Eastampton Township
Evesham Township
Florence Township
Maple Shade Township
Medford Township
Moorestown Township
Mount Holly Township
Mount Laurel Township
Pemberton Township
Springfield Township
Willingboro Township

Camden County

Berlin Township
Camden City
Cherry Hill Township
Gloucester Township

Cape May County

Avalon Borough
Cape May City
Lower Township
Ocean City

Cumberland County

Bridgeton City
Vineland City

Essex County

Belleville Township
Cedar Grove Township
Fairfield Township
Irvington Township
Livingston Township
Montclair Township
Newark City
Orange City

Gloucester County

Logan Township
Monroe Township*
Washington Township

Hudson County

Bayonne City
Hoboken City*
Jersey City
Weehawkin Township

Hunterdon County

Clinton Township
Lambertville City

Mercer County

East Windsor Township
Ewing Township
Hamilton Township*
Lawrence Township*
Trenton City
West Windsor Township

Middlesex County

East Brunswick Township
Edison Township*
Monroe Township
New Brunswick City
North Brunswick Township
Old Bridge Township
Perth Amboy City
Piscataway Township
Spotswood Borough
South Amboy City
South Brunswick Township*
Woodbridge Township*

Monmouth County

Aberdeen Township
Belmar Borough
Bradley Beach Borough

Highlands Borough
Howell Township
Keansburg Borough
Marlboro Township
Ocean Township
Tinton Falls Borough

Morris County

Chester Township
Denville Township
East Hanover Twp.
Jefferson Township
Lincoln Park Borough
Mine Hill Township
Morristown Town
Mount Olive Township
Mountain Lakes Borough
Parsippany-Troy Hills Town
Pequannock Township
Randolph Township
Rockaway Township
Roxbury Township

Ocean County

Berkeley Township*
Brick Township
Island Heights Borough
Long Beach Township
Manchester Township*
Stafford Township
Toms River*

Passaic County

Hawthorne Borough
Passaic City
Paterson City
Ringwood Borough

Wayne Township
West Milford Township
West Paterson Borough

Somerset County

Bridgewater Township
Franklin Township
North Plainfield Borough

Sussex County

Byram Township
Newton Town
Sparta Township
Vernon Township
Verona Township

Union County

Clark Township
Elizabeth City
Hillside Township
Rahway City
Scotch Plains Township

Warren County

Allamuchy Township
Deptford Township
Greenwich Township
Lopatcong Township
Phillipsburg Township
Pohatcong Township
Washington Borough
West Orange Township

Information for Non-Faulkner Act Municipalities

For every one New Jersey municipality that has adopted the Faulkner Act, there are an additional 3 that have not. In these municipalities, where citizens are not granted the right to self-propose ordinances, there are other useful courses of action to affect the passage and proposal of ordinances in your community.

You should check your town or city's Charter to see whether it provides citizens' the right to initiative. The threshold may be set very high and require many more signatures than in Faulkner Act towns. You should contact the Center for Civic Responsibility (732-548-9798) for strategy assistance if this is the case. In all municipalities citizens can organize an efforts to change their form of government to fall under the Faulkner Act. Contact the Center for the information.

In non-Faulkner Act municipalities, ordinances are proposed directly by a council member for first 'reading' at a municipal council meeting. It is important to remember that just because you cannot submit an ordinance petition yourself, does not mean that you are without power to enact change in your neighborhood. Rather, it puts even more importance on your being an active member of your community by

keeping abreast of local issues, staying in contact with your local council members and remaining informed of public hearing announcements published in your local newspaper. And, it means that if you recognize a problem in your community you would like to see addressed, you should contact the your council members to express your concerns and encourage them to propose the necessary legislation.

For example, if you wish to enact legislation outlawing the use of hand-held cellular phones while driving, you should contact your local council member(s) and request that they propose such an ordinance at the next council meeting. This may be done either by phone, letter or email. Bear in mind that council members are often busy and prefer written correspondence. Do, however, follow up with a phone call to ensure your request has been received and reviewed. Do, also, ask for a commitment from the council member and a timeframe in which you can expect the issue to be brought before the committee. To reach your elected officials, contact your municipal offices and ask for their contact information; phone numbers, office addresses and emails are readily available and easily accessible. You may also check your township's website for a complete list of elected officials and their contact information.

When approaching council members, be certain to remain respectful and present a well-researched proposal. In this instance, you will want to provide each with the number of automobile accidents that occurred in your neighborhood while drivers were talking on their cell phones to demonstrate the high need for the ordinance. If relevant, you may also wish to provide examples of similar legislation already passed in near-by communities, including the fine charged for violating the ordinance.

Once the ordinance is proposed by the council member to the committee at its initial reading, it is then published in full text in the local newspaper two weeks prior to the date of the ordinance's second, public hearing. Given the two-week period between the publication and hearing dates, you have ample time to generate public support for the ordinance, draft a statement to present to the committee and get media attention on the subject.

Although citizens in non-Faulkner Act municipalities do not directly propose ordinances, they are entitled to speak at the hearing and bring public as well as media attention to the issue – an equally vital right. Because the proposed legislation will undoubtedly affect the members of the community, it is essential to the democratic process that council members are aware of the people's concerns in order to best represent them; as an engaged citizen, it is your responsibility to exercise your right

and voice your concerns before the committee. When appearing before the council at a public hearing, be sure to keep the following tips in mind:

- **Know the rules.** Request in advance a copy of the procedures for public hearings, which can be obtained from the municipal clerk's office. Take particular notice of any sign-in requirements and speaking time limits.
- **Be prepared.** Write your comments in advance and recite them until you feel confident with them. Speaking before a large audience may seem intimidating and the more practiced and prepared you are, the better you will perform. It is also good to review possible objections to the ordinance and prepare a response.
- **Be concise.** Time limits, if relevant, will be enforced. Even without time limits, however, you should strive to make your point in roughly five minutes to keep the attention and interest of the audience.
- **Dress appropriately.** Most often, business or business casual attire is preferred. Because you are addressing the council, who will most likely be in suits, you should aim to look professional. Follow the old adage, "Dress for success."
- **Be early.** Arriving at least 15 minutes early will give you ample time to introduce yourself to the council, sign-in if necessary, and familiarize yourself with the agenda. It will also prove invaluable to have time to relax and get acquainted with your fellow citizens.
- **Be respectful.** Shouting and yelling will get you nowhere. To get respect, you must be respectful and polite, so it is best to begin by thanking the council and your fellow constituents for their time and making your point without being argumentative or attacking any persons or beliefs. This is your chance to sway the audience, so just remember you catch more bees with honey.
- **Realize you are on record.** Public hearings are just that, public, so expect to see reporters in the seats jotting notes. It is entirely feasible that you may be quoted in the local papers or filmed for local news broadcasts. And remember this is your chance to reach a broader audience, so bear this in mind when drafting your comments and preparing for the hearing.

Following the public hearing, the ordinance is put to the municipal committee for election. In most cases, with the exception of budgetary matters, the ordinance is

passed or rejected by a majority vote. If approved, the full-text ordinance is again published in the local newspaper and takes effect immediately following its publication.

The Citizens Campaign Model Laws are Available for Download at
www.TheCitizensCampaign.org

Charter "Clean" Version

AS OF September 8, 2020

Section 1. Creation.

The City of Fernandina was first established in 1825, then later abolished and reincorporated in 1921 by the Florida Legislature. The Town of Fernandina Beach was established in 1949 by the Florida Legislature. The City of Fernandina and the Town of Fernandina Beach were consolidated as the City of Fernandina Beach on January 1, 1952 after referendum approval by voters.

Section 2. Reserved.

Section 3. Reserved.

Section 4. Reserved.

Section 5. Reserved.

Section 6. Boundaries.

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

(a) *Original boundaries of the City.* 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 ($S88^{\circ}23'E$), 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 ($N1^{\circ}37'E$), 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 ($S88^{\circ}23'E$), 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 ($S1^{\circ}37'W$), 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 ($S88^{\circ}23'E$), 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 ($N1^{\circ}54'E$), 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 ($S88^{\circ}23'E$) 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 ($N1^{\circ}37'E$), 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 ($S88^{\circ}23'E$), 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 ($S3^{\circ}18'E$), 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 ($N85^{\circ}53'E$) 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 to City Boundaries.* Pursuant to Florida law, the City is permitted to annex additional properties in accordance with procedures established by state and local laws. The current boundary records are kept in the City Clerk's Office and are available for view upon request.

Section 7. Powers of City generally.

- (a) The City of Fernandina Beach has 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 the municipality, by acquisition, condemnation or otherwise;
 - (2) Issue and sell bonds upon its property both within and without its corporate limits, or the earnings thereof, or both;
 - (3) Adopt and enforce local police, sanitary and other similar regulations not in conflict with the laws of the state;
 - (4) Do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants;
 - (5) Exercise all other powers of local self-government; and
 - (6) Own and operate all utilities, both within its boundaries, and outside its boundaries, in order to serve the public health, safety and welfare.
- (b) The enumeration of particular powers by this Charter are not exclusive, but are some of the municipal home rule powers provided for by the Florida State Constitution and Laws of Florida, and there are other governmental, corporate and proprietary powers not enumerated in this Charter which may be exercised by the City to conduct municipal government, perform municipal functions and render municipal services (as set forth in Section 166.021, Fla. Stats.).

Section 8. Commission-manager plan (form) of government.

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

Section 9. Created; election by seats, number; term.

The City Commission prescribes the conduct, method, dates and manner of holding elections by ordinance. 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 are non-partisan.

- (a) There is hereby created a City Commission to consist of five (5) seats of the City of Fernandina Beach, elected at large by the qualified voters of the City of Fernandina Beach. The designation of seats is not used or construed to divide the City into Commission districts for purposes of qualification, election, or representation.
- (b) Members serve for a term of four (4) years or until their successors have been elected and take office: Seats 1, 2, and 3 were elected in 2020. Seats 4 and 5 are elected in 2022. Thereafter, all seats are elected every four (4) years for a term of four (4) years.
- (c) If there are several candidates seeking the same seat, then the candidate receiving a majority vote is elected for that seat. In the event no candidate receives a majority vote, then the two (2) candidates receiving the highest number of votes must have their names placed on an election ballot unless one (1) of the two (2) candidates withdraws from the race, then no run off or second election will be called, and the remaining candidate is elected. In a run off or second election, the candidate receiving the highest number of votes is elected for that seat. No candidates can qualify for more than one (1) seat in any general election or run off or second election in any election year.
- (d) City elections are nonpartisan and held every two (2) years in even numbered years and in conjunction with county, state and federal elections. The City Commission has the authority to call for special elections at any time on dates other than the City general elections.

Section 10. Powers generally; dealing with administrative service through Charter Officers required; penalties for violations.

- (a) The Mayor and Commissioners must not, in any manner, dictate the appointment or removal of any City officers or employees whom a Charter Officer or any of the Charter Officer's subordinates are empowered to appoint, evaluate and supervise. City Commissioners must each complete an annual performance evaluation for each Charter Officer.
- (b) The Mayor and Commissioners deal with administrative service through the respective Charter Officer. The Mayor and Commissioners must 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.
- (c) Any violation of the provisions of this section by any member of the City Commission is, upon first offense, grounds for recognition and discussion by the Commission of the violation, any second offense -within a Commissioner's term is grounds for sanction by the City Commission, and a third offense within the same Commissioner's term is grounds for forfeiture of the Commission seat by the offending Commissioner. Prior to forfeiture of a Commission seat, any Commissioner accused of violating this Section is entitled to a public hearing conducted in accordance with the City's rules of procedure for quasi-judicial hearings as adopted by ordinance.
- (d) Investigations or inquiries are conducted pursuant to Section 136 of this Charter.

Section 10A. Referendum required for sale of City-owned recreational facilities and no sale of conservation land.

- (a) A referendum election is required prior to the sale or lease for a period of more than 40 years of “recreational facilities” such as golf courses, swimming pools, and parks.
- (b) For a referendum election under this Section 10A, the City Commission must first adopt an ordinance by unanimous vote of the Commission to put a sale or lease of recreational facilities on a ballot for the voters, and the referendum must then pass by 70% of the voters in that referendum election.
- (c) “Conservation lands”, including City-owned lands protected by conservation easements, must not be leased or sold by the City and are held by the City for the benefit of the public in perpetuity.
- (d) “Recreational facilities” and “conservation lands” are each defined in the City’s Comprehensive Plan and generally mean lands or places with a Recreation or Conservation designation, respectively, on the City’s Future Land Use Map of the City’s Comprehensive Plan. Conservation lands may also include lands owned or leased by the City and protected by conservation easements.

Section 10B. Reserved.

Section 11. Qualifications of members; holding of more than one office not permitted; interest in profits of City contracts prohibited; filling vacancies.

- (a) The Commission is the judge of the election and qualification of its own members, subject to review by the courts. Members of the City Commission must be residents of the City and have the qualifications of electors. Officers and employees of the City may not hold more than one office in the City government of the City of Fernandina Beach, and must 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 must be declared void by the City Commission. City Commissioners are “public officers” under Ch. 112, Florida Statutes (Code of Ethics for Public Officers and Employees) and must abide by all of the ethical standards set forth in these statutes.
- (b) Any member of the City Commission ceasing to possess the foregoing qualifications, including violations of Ch. 112, Florida Statutes (state Code of Ethics), or who has been convicted of a felony is automatically suspended from office until the City Commission conducts a public hearing and issues a ruling regarding forfeiture of the Commissioner’s seat. The public hearing must be conducted within ten (10) calendar days of a verified, written complaint or request for hearing submitted to the City Attorney. In addition, any member of the City Commission who misses three (3) regular meetings in a calendar year is automatically suspended from office until the City Commission conducts a hearing as set forth herein and issues a ruling regarding forfeiture of the Commissioner’s seat. A hearing conducted pursuant to this Section must be conducted in accordance with the City’s rules of procedure for quasi-judicial hearings, as adopted by resolution or ordinance.
- (c) Any vacancy in the City Commission must be filled until the next regular municipal election by vote of the remaining members of the City Commission; provided, that if such vacancy is not filled within thirty (30) days after it has occurred, appointment to fill the existing vacancy will be made by the Governor. Vacancies resulting from a recall election shall be filled as required by state law.

Section 12. Salary of members.

The Mayor and City Commissioners receive a salary as established by appropriate City ordinance.

Section 13. Limitation on successive terms in office.

The City Commissioners are limited to two (2) successive terms in office. No person is 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.

Section 14. Reserved.

Section 15. Reserved.

Section 16. Mayor – When elected; procedure; term.

- (a) The Mayor of the City will be elected by the voters by placement on the ballot as authorized in subsection (b) below and by receiving the highest number of votes for Mayor with such election to be held in conjunction with the regular election held for the purpose of electing City Commissioners.
- (b) Candidates for the mayoral election must consist of incumbent Commissioners who are not subject to reelection to the City Commission at that same election. Any eligible candidate wishing to be considered for the position of Mayor must request in writing, no later than the City Commission's deadline for qualifying for running for City Commission in the City general election, to be placed on the ballot.
- (c) The mayoral candidate on the ballot with the second highest number of votes in the mayoral election must be appointed to the Vice-Mayor position.
- (d) On the occasion that only one incumbent City Commissioner should choose to be on the mayoral ballot, there is no need for the mayoral election, and the one mayoral candidate must be appointed to the position of Mayor at the City Commission's annual organizational meeting. The City Commission may choose any City Commissioner not appointed as the Mayor to be the Vice-Mayor, including newly-elected Commissioners. If no incumbent City Commissioner chooses to be on the mayoral ballot, the City Commission must vote to appoint one of the Commissioners to serve as Mayor and one Commissioner to serve as Vice-Mayor, and newly-elected Commissioners may be considered.
- (e) The Mayor and Vice-Mayor each serve a term of two (2) years to coincide with the municipal general election.
- (f) The existing Mayor and Vice-Mayor will serve until the organizational meeting following the next regular general election held by the City.

Section 17. Functions and powers of the Mayor.

The powers and duties of the Mayor are set forth in this Charter.

- (a) The Mayor has a voice and a vote in the proceedings of the Commission but no veto power;
- (b) The Mayor does not exercise any administrative power, unless specifically set forth in this Charter;
- (c) The Mayor presides at all meetings of the Commission and performs such other duties consistent with the office, including but not limited to ensuring that every Commissioner completes an annual performance evaluation for each Charter Officer. The Mayor may use the title of Mayor in the execution of legal instruments or when required by the general or special laws of the state; and
- (d) The Mayor is the official head of the City for the purpose of serving civil processes and for all ceremonial purposes.

Section 18. Reserved.

Section 19. Reserved.

Section 20. Reserved.

Section 21. Adoption and enactment of municipal ordinances and resolutions; quorum for City Commission.

- (a) 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.
- (b) A majority of the members of the City Commission constitutes a quorum. An affirmative vote of at least three City Commissioners is necessary to enact any ordinance or resolution; except that a supermajority of the City Commission is required to enact an emergency ordinance. In case of a serious medical condition, as provided by Florida law, a Commissioner may be permitted to vote in real time by communication media technology instead of being physically present. On final passage, the vote of each member of the City Commission voting must be entered on the official record of the meeting. All ordinances or resolutions passed by the City Commission become effective ten (10) days after passage or as otherwise provided therein.
- (c) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and must be signed by the presiding officer and the City Clerk.

Section 22. Boards

The City Commission may at any time appoint an advisory board or committee, on a standing or ad hoc basis, composed of 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 or committee serve without compensation for the time fixed in their appointment or at the pleasure of the Commission, and their duties are to consult and advise with municipal officers and make written recommendations, which then become part of the records of the City.

Section 23. Reserved.

Section 24. Reserved.

Section 25. City Manager appointment; tenure; tenure of office; qualifications.

The City Commission must appoint a City Manager who is the administrative head of the municipal government under the direction and supervision of the City Commission and holds office at the pleasure of the City Commission. The City Manager must 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 90 days after executing the Oath of Office, the City Manager must become a resident of the City. The City Manager must have prior management experience, and the Commission must consider more than one (1) qualified candidate for City Manager. The City Manager must be a member in good standing of a professional organization such as the International City/County Management Association prior to appointment or within six (6) months after appointment. The City Commission will establish an appropriate contract for the City Manager, which contains 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.

Section 26. Reserved.

Section 27. Reserved.

Section 28. Reserved.

Section 29. Powers and duties enumerated.

The City Manager is responsible to the City Commission for the proper administration of all affairs of the City, and to that end has the following powers and duties:

- (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 setting the compensation for officers and employees;
- (d) To see that all terms and conditions imposed in favor of the City or its inhabitants in any contract 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 deemed 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 and five-year capital improvement plan;
- (h) To be responsible for the procurement, sale of surplus, management, payment, and contract compliance for all supplies, services, and construction contracts, including any Federal, State, or other grant funded activity, at the direction of the City Commission and in accordance with all applicable City, State, or Federal laws and regulations; and
- (i) To designate a City Manager pro tem to be approved by the City Commission to serve in case of absence or disability of the City Manager.

Section 30. Salaries and compensation.

The City Manager fixes the number and compensation of all other officers and employees. The salaries or compensation must be uniform for like services in each grade of the City service, as the same will be graded or classified by the City Manager, and approved by the City Commission. All salaries and rates of pay, with dates of employment and discharge, must be immediately reported to the City Clerk. All fees and money received or collected by officers and employees must be immediately paid over to the City Comptroller on the date of their receipt.

Section 31. City Attorney tenure of office; qualifications; appointment and duties; attorney pro tem.

(a) The City Commission must appoint a City Attorney, who acts 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 serves under the direction and supervision of the City Commission and holds office at the pleasure of the City Commission. The City Attorney must be chosen on the basis of legal and administrative qualifications. The City Commission must establish an appropriate contract for the City Attorney, which contains 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 must designate a properly qualified person to temporarily execute the functions of the office. The City Attorney must be a lawyer admitted to and having authority to practice in all courts of the state, including circuit and district appellate courts of Florida. The City Attorney must also be admitted to practice in the federal Middle District of Florida court and the 11th Circuit Appeals court or be admitted within six months of taking the Oath of Office. It is preferred that the City Attorney be board certified in City, County and Local Government Law by the Florida Bar Association.

(b) The City Commission must establish an appropriate contract for the City Attorney, which contains 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 must designate a properly qualified person to temporarily execute the functions of the office.

(c) Powers and duties enumerated. The City Attorney is 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 are the following:

- 1) Prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and endorses on each the City Attorney's approval;
- 2) Take such action required to avoid default judgment against the City in any litigation and must 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 must review with the City Commission at the next regular meeting when any action to avoid default has been taken by the City Attorney;
- 3) 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 report to the City Attorney. The City Attorney has the authority to hire, direct, promote and terminate the employees in the City Attorney's Office, notwithstanding Section 29(b) herein; and
- 4) For the purpose of serving during the absence or disability of the City Attorney, the City Attorney must propose a list of qualified attorneys for approval by the City Commission from which the City Commission may choose a City Attorney pro tem.

Section 32. Reserved.

Section 33. Reserved.

Section 34. Reserved.

Section 35. Reserved.

Section 36. Reserved.

Section 37. Reserved.

Section 38. Reserved.

Section 39. Reserved.

Section 40. Reserved.

Section 41. Police department – Composition; authority of chief.

The police department of the City of Fernandina Beach consists of a chief of police and as many subordinate officers, and employees as the City Commission determines by ordinance. The chief of police has exclusive control of the stationing and transfer of all officers and employees constituting the police department, 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. In case of riot, conflagration or like emergency, the City Manager may appoint additional police personnel for

temporary service. A referendum election is required prior to the City dissolving the police department of the City or contracting out law enforcement services to another agency.

Section 42. Reserved.

Section 43. Reserved.

Section 44. Fire department; composition; authority of chief.

The fire department of the City consists of a chief and as many subordinate officers, firefighter/rescue personnel and employees as the City Commission, by ordinance, determines. The fire chief has exclusive control of the stationing and transfer of all firefighter/rescue personnel and other officers and employees of the fire department subject to such rules and regulations as may be prescribed by the City Manager or by ordinance of the City; the fire chief has exclusive management and control of such officers and employees as may be employed in the administration of the affairs of the force. In case of riot, conflagration or like emergency, the City Manager may appoint additional firefighter/rescue personnel for temporary service. A referendum election is required prior to the City dissolving the fire department of the City or contracting out fire/rescue services to another agency.

Section 45. Reserved.

Section 46. Reserved.

Section 47. City Clerk appointment and qualifications; powers and duties enumerated; and City Clerk pro tem.

(a) The City Commission must appoint a City Clerk, who serves under the direction and supervision of the City Commission and holds office at the pleasure of the City Commission. The City Clerk must be chosen on the basis of administrative qualifications. The City Clerk must be a member in good standing of a professional organization such as the Florida Association of City Clerks. The City Commission must establish an appropriate contract for the City Clerk, which contains the employment conditions, compensation, benefits and such other terms as may be appropriate.

(b) The City Clerk is 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 are the following:

- 1) Attend all meetings of the City Commission and keep a journal of its proceedings, the correctness of which proceedings as entered in such journal must 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 must be maintained of the proceedings of all boards and committees required by the City Commission;
- 2) Is the custodian of the seal of the City;
- 3) 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;
- 4) Countersign all checks and review outgoing checks to determine compliance with the City's established Purchasing Policy and Procedures;
- 5) Serve as legal custodian of all City records including but not limited to, all contracts, deeds, abstracts, title insurance policies and other official documents;
- 6) Authenticate all ordinances, resolutions and transcripts of legislative functions;
- 7) Publish all public notices required by the City Commission or by law;
- 8) Prepare all awards, proclamations, certificates and other formal Documentation by the City Commission;

- 9) Notify the City Commission of all vacancies on boards or committees established by the City Commission;
- 10) File all liens, satisfactions and releases as authorized by the Mayor or City Manager;
- 11) Serve as notary public on behalf of the City and attest all City documents as required;
- 12) The direct employees of the City Clerk in the office of the City Clerk report to the City Clerk. The City Clerk has the authority to hire, direct, promote and terminate the employees in the City Clerk's office, notwithstanding Section 29(b) herein;
- 13) Maintain City records of annexations and the official City boundaries, as they may be amended from time to time; and
- 14) For the purpose of serving during the absence or disability of the City Clerk, a City Clerk pro tem must be proposed for approval by the City Commission.

Section 48. Reserved.

Section 49. Reserved.

Section 50. Reserved.

Section 51. Reserved.

Section 52. Reserved.

Section 53. Reserved.

Section 54. Reserved.

Section 55. Reserved.

Section 56. Reserved.

Section 57. Reserved.

Section 58. Department of Finance established.

There is established a department of Finance, which is headed by a City Comptroller, under the supervision of the City Manager. The City Comptroller must be a Certified Public Accountant (CPA) or have the same training and qualifications as a CPA. The Comptroller must be a member in good standing of the Florida Government Finance Officers Association within six (6) months of starting employment with the City. The City Comptroller is the custodian of all funds of the City and keeps, preserves, reconciles, records, invests and deposits 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.

Section 59. Liability Insurance.

The City Comptroller must have professional liability to protect the City.

Section 60. Collection of interest on investments or deposits.

All money due as interest upon investments or deposits is 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 are held by the City Comptroller for safe keeping for the benefit of the City. The Comptroller must propose sound, written investment policies which are approved by the City Commission.

Section 61. Reserved.

Section 62. Payment of money; procedure.

The City Comptroller issues checks to be paid from City funds only in accordance with established procedures, which procedures must 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 must be established by resolution.

Section 63. Reserved.

Section 64. Financial Report; submission to Commission monthly.

At a regular City Commission meeting, the City Comptroller will submit monthly to the City Commission through the City Manager, a detailed report of the financial status of the City funds. The City Comptroller, or designee, will 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. In addition, the City Comptroller must schedule an annual financial audit of accounts and records by an independent certified public accountant in accordance with state law.

Section 65. Reserved.

Section 66. Reserved.

Section 67. Reserved.

Section 68. Reserved.

Section 69. Reserved.

Section 70. Reserved.

Section 71. Annual estimate of expenditures and revenues for forthcoming year; submission to City Commission by City Manager.

- a) In accordance with Section 29(g), the City Manager sets forth an estimate of the expenditures and revenues of the City for the upcoming fiscal year. The estimate of expenditures and revenues must be submitted in compliance with the procedures set forth in the laws of Florida.
- b) The estimates, budget and 5-year capital improvement plan constituting the recommendation of the City Manager as to the amounts necessary to be appropriated for the ensuing fiscal year must 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.

Section 72. Reserved.

Section 73. Reserved.

Section 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 is authorized to transfer funds within the same department or division in such maximum amounts as established by ordinance or resolution from time to time; provided, however, this authorization does not extend to any funds received for or maintained in the Fernandina Beach Land Conservation Trust Fund.

Section 75. Limitation on appropriations.

At the close of each fiscal year the unencumbered balance of each appropriation reverts to the respective fund from which it was appropriated and is subject to future appropriation. Any accruing revenue of the City not appropriated and any balance at any time remaining after the purpose of the appropriation has 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 may be drawn from the treasury of the City, nor any obligation for the expenditure of the money be incurred, except pursuant to the appropriation made by the City Commission. No funds received for or maintained in the Fernandina Beach Land Conservation Trust Fund may be appropriated for or applied to any expenditure for any purpose other than those set forth in the Fernandina Beach Land Conservation Program.

Section 76. Reserved.**Section 77. Reserved.****Section 78. Reserved.****Section 79. Fees.**

- (a) 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.
- (b) Pursuant to and in compliance with the laws of the State of Florida, the City 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.

Section 80. Reserved.**Section 81. Comptroller Certification of funds for contracts, obligations, etc.**

The Comptroller must certify to the City and the City Commission that money to be expended for an obligation, such as a contract, is contained in the City account from which it is to be drawn and not appropriated for any other purpose prior to any action being taken by the City Commission or any City employee that commits the City to incur the obligation.

Section 82-107. Reserved.**Section 107A. Reserved.****Section 108-119. Reserved.****Section 120. Reserved.****Section 121. Oath of office.**

Every officer and employee of the City must, before entering upon the duties of employment or office, take and subscribe to an oath or affirmation to be filed and kept in the office of the City Clerk, which must be in compliance with state law and at a minimum be in the following form:

“I, _____, a citizen of the State of Florida and of the United States of America, and being employed by or an officer of the City of Fernandina Beach and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and I will support the laws of the State of Florida and the laws, and policies of the City of Fernandina Beach, including without limitation, the City’s Comprehensive Plan and the standards of conduct prescribed by the Florida Code of Ethics for Public Officers and Employees. I further promise to fairly and honestly use my position to support the best interests of the citizens of Fernandina Beach.”

Section 122. Reserved.

Section 123. Reserved.

Section 123A. Reserved.

Section 124. Reserved.

Section 125. Reserved.

Section 125A-135. Reserved.

Section 136. Administrative investigations.

- (a) The City Commission may by majority vote authorize investigations by resolution. The City Commission, Charter Officers and members of City Commission appointed boards, have the power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated. For such purpose each has the power to compel the attendance of witnesses and the production of books, papers, and other evidence; and may issue subpoenas or attachments which must be signed by the Mayor or the City Manager and must be served by any officer authorized by law to serve such process.
- (b) The authority making such investigation has the 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. The authority has the power to punish as for contempt any person refusing to testify to any fact within their knowledge, or produce any book or papers under their control relating to the matter under investigation.
- (c) Nothing in this section should be construed to limit the Charter Officers' ability to inquire into matters under their respective areas of responsibility.

Section 137. Dedication of streets.

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

Section 138-140. Reserved.

Section 141. Reserved.

Section 142. Charter Review.

Beginning in 2027, and at least once every eight (8) years thereafter, the City Commission must appoint a Charter Review Committee, of not less than seven (7) members from the City electors to review the City Charter and propose any amendments or revisions, which may be advisable for placement on the election ballot. The City Attorney is responsible for supporting such committee with staff and legal advice.

Section 143. Savings clause.

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same does not 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.

Section 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 City of Fernandina Beach voting at a special or general election to be held in the City of Fernandina Beach.

Charter Review Committee 2020

Proposed Changes

Last updated September 21, 2020

Rationale for Some Language Changes

- USE OF “SHALL”: The Committee recommends removal of the word “shall” pursuant to current legal writing standards. As appropriate, it has been replaced with “will”, “must” or active language throughout the document.
- HIS/HERS: The Committee recommends removing all personal pronouns to be inclusive and conform to more modern style.

Section 1 – Creation

Current Language

- 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.

Proposed Language

- The City of Fernandina was first established in 1825, then later abolished and reincorporated in 1921 by the Florida Legislature. The Town of Fernandina Beach was established in 1949 by the Florida Legislature. The City of Fernandina and the Town of Fernandina Beach were consolidated as the City of Fernandina Beach on January 1, 1952 after referendum approval by voters.

Rationale

- The current description of the creation of the City of Fernandina Beach in the Charter is inaccurate. This new language corrects inaccuracies.

Sections 2, 3, 4, 5 - Reserved

Current Language

- Sec. 2. – Reserved.
- Sec. 3. – Reserved.
- Sec. 4. – Reserved.
- Sec. 5. – Reserved.

Proposed Language

- No changes

Section 6 – Boundaries (1 of 3)

Current Language

- 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:

Proposed Language

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

Section 6 – Boundaries (2 of 3)

Current Language

(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.

Proposed Language

(a) *Original boundaries of the City.* 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.

Section 6 – Boundaries (3 of 3)

Current Language

(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 200.01 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 807.10 feet to the southeast corner of Lot 6, Block 2, aforesaid; run thence north 1°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 102.96 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;—~~

Proposed Language

(b) Additions to City Boundaries.

Pursuant to Florida law, the City Is permitted to annex additional properties in accordance with procedures established by state and local laws. The current boundary records are kept in the City Clerk's Office and are available for view upon request.

Rationale – Section 6 changes

- Instead of continuously updating the Charter as the City's boundaries change, or having an outdated boundary listed, the Committee recommends having the current boundaries kept up to date in the Clerk's Office. This mirrors similar language from several peer cities.

Section 7 – Powers of City generally.

Current Language

- (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.~~

Proposed Language

- (a) The City of Fernandina Beach ~~shall have~~ has 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~~ the municipality, by acquisition, condemnation or otherwise;
 - (2) Issue and sell bonds upon its property both within and without its corporate limits, or the earnings thereof, or both;
 - (3) Adopt and enforce local police, sanitary and other similar regulations not in conflict with the laws of the state;
 - (4) Do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants; ~~and~~
 - (5) Exercise all other powers of local self-government; and
 - (6) Own and operate all utilities, both within its boundaries, and outside its boundaries, in order to serve the public health, safety and welfare.
- (b) The enumeration of particular powers by this Charter are not exclusive, but are some of the municipal home rule powers provided for by the Florida State Constitution and Laws of Florida, and there are other governmental, corporate and proprietary powers not enumerated in this Charter which may be exercised by the City to conduct municipal government, perform municipal functions and render municipal services. (as set forth in Section 166.021, Fla. Stats.)

Rationale – Section 7 Changes

- Clean up legalese; reference home rule.
- Incorporate Sec. 45 here due to relevance.
- Incorporate Sec. 141 due to relevance.

Section 8 – Commissioner-manager plan (form) of government.

Current Language

- 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.

Proposed Language

- The form of government of the City of Fernandina Beach provided for under this Act ~~shall be that~~ is known as the "Commission-Manager Plan," and the Commission shall consist of five (5) citizens, who ~~shall be~~ are elected at large in the manner ~~hereinafter~~ provided in this Charter. 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 in this Charter and under Florida law.

Rationale – Section 8 Changes

- Clean up legalese.

Section 9 - Created; election by ~~groups~~ seats, number; term. (1 of 2)

Current Language

- 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.

Proposed Language

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.

(a) There is hereby created a City Commission to consist of five (5) ~~electors~~ seats of the City of Fernandina Beach, and elected at large by the qualified voters of the City of Fernandina Beach. ~~The designation of seats is not used or construed to divide the City into Commission districts for purposes of qualification, election, or representation.~~

~~(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.~~

Section 9 - Created; election by ~~groups~~ seats; number; term. (2 of 2)

Current Language

- (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.

Proposed Language

- (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:~~ Seats 1, 2, and 3 were elected in 2020. Seats 4 and 5 are elected in 2022.

~~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 seats ~~shall be~~ are elected every four (4) years for a term of four (4) years.

- (c) If there are several candidates ~~in each seeking the same seat group,~~ then the candidate receiving a majority vote ~~shall be held is~~ is elected for that ~~seat. group. provided, However, that~~ seat. In the event the no candidate shall ~~not~~ receives a majority vote, then and in that event the two (2) candidates receiving the largest or highest number of votes shall must have their names placed on an election ballot unless one (1) of the two (2) candidates to be elected shall withdraws from the race, then and in that event no run off or second election shall will be called, and the remaining candidate shall be declared is elected. in a run off or second election and In said a run off or second election, the candidate receiving the largest or highest number of votes shall be held is elected for that seat. 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 can~~ can qualify in for more than one (1) ~~group seat~~ group seat in any general election or run off or second election in any one election year.
- (d) City elections ~~shall be~~ are 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~~ has the authority to call for special elections at any time ~~not on the same dates~~ other than as the City general elections. ~~for special elections, ballot questions and referenda.~~

Rationale – Section 9 Changes

- Clean up legalese; change “groups” to “seats” at large, remove redundant clauses.
- Committee recommends that Rank Choice Voting be investigated and considered by the City Commission when the state approves voting software that can accommodate Rank Choice Voting. The City of Sarasota approved Rank Choice Voting by referendum charter change in 2007 but cannot use this method since state has not approved and certified voting equipment to tally votes for this method.

Section 10 – Powers generally; dealing with administrative service through Charter Officers required; penalties for violations deemed misdemeanor, penalty

Current Language

(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.

Proposed Language

(a) The Mayor and Commissioners ~~shall~~ must not, in any manner, dictate the appointment or removal of any City officers ~~or~~ employees whom ~~the~~ a Charter Officer or any of his/her the Charter Officer's subordinates are empowered to appoint, evaluate and supervise. City Commissioners must each complete an annual performance evaluation for each Charter Officer.

~~(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)(b)~~ The Mayor and Commissioners ~~shall~~ deal with administrative service through the respective Charter Officer. The Mayor and Commissioners ~~shall~~ must 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)(c)~~ Any violation of the provisions of this section by any member of the City Commission ~~shall~~ is, upon first offense, be grounds for ~~sanction~~ recognition and discussion by the Commission of the violation, any second or subsequent offense or ~~violation~~ within a Commissioner's term is grounds for sanction by the City Commission, and a third offense within the same Commissioner's term is grounds for ~~forfeiture of the Commission seat by the offending Commissioner. Prior to forfeiture of a Commission seat, any Commissioner accused of violating this Section is entitled to a public hearing conducted in accordance with the City's rules of procedure for quasi-judicial hearings as adopted by ordinance. 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 ~~is~~ subject to removal from office.

~~(e)(d)~~ Investigations or inquiries ~~shall be~~ are conducted pursuant to Section 136 of this Charter.

Rationale – Section 10 Changes

- Clean up legalese.
- Changed penalty and process for interference.
- Added requirement of annual review for Charter Officers.

Section 10A - Referendum required for sale of City-owned recreational facilities and no sale of conservation land.

Current Language

(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.

Proposed Language

- (a) (1) A referendum election is required prior to the sale or lease for a period of more than 40 years of "recreational facilities" such as golf courses, swimming pools, and parks.
- (b) (2) For a referendum election under this Section 10A, the City Commission must first adopt an ordinance by unanimous vote of the Commission to put a sale or lease of recreational facilities on a ballot for the voters, and the referendum must then pass by 70% of the voters in that referendum election.
- (c) "Conservation lands", including City-owned lands protected by conservation easements, must not be leased or sold by the City and are held by the City for the benefit of the public in perpetuity.
- (d) "Recreational facilities" and "conservation lands" are each defined in the City's Comprehensive Plan and generally mean lands or places with a Recreation or Conservation designation, respectively, on the City's Future Land Use Map of the City's Comprehensive Plan. Conservation lands may also include lands owned or leased by the City and protected by conservation easements.

~~(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,~~

Rationale – Section 10A Changes

- Clean up legalese.
- Add prohibition for sale or lease of conservation lands.
- Restrictive referendum requirement of sale or long term lease of recreational facilities.

Section 10B - ~~General power to borrow money and issue bonds.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~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.~~
- Delete and reserve.

Rationale – Section 10B Changes

- Redundant and covered by state law.

Section 11 - Qualifications of members; holding of more than one office not permitted; interest in profits of City contracts,~~etc.,~~ prohibited; filling vacancies.

Current Language

- 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.

Proposed Language

- (a) The Commission is the judge of the election and qualification of its own members, subject to review by the courts. Members of the City Commission shall must 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 must 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 must be declared void by the City Commission. City Commissioners are "public officers" under Ch. 112, Florida Statutes (Code of Ethics for Public Officers and Employees) and must abide by all of the ethical standards set forth in these statutes.
- (b) Any member of the City Commission ceasing to possess the foregoing qualifications, including violations of Ch. 112, Florida Statutes (State Code of Ethics), or who has been convicted of a felony is automatically suspended from office until the City Commission conducts a public hearing and issues a ruling regarding forfeiture of the Commissioner's seat. The public hearing must be conducted within ten (10) calendar days of a verified, written complaint or request for hearing submitted to the City Attorney. In addition, any member of the City Commission who misses three (3) regular meetings in a calendar year is automatically suspended from office until the City Commission conducts a hearing as set forth herein and issues a ruling regarding forfeiture of the Commissioner's seat. A hearing conducted pursuant to this Section must be conducted in accordance with the City's rules or procedure for quasi-judicial hearings, as adopted by resolution or ordinance.
- (c) Any vacancy in the City Commission must be filled until the next regular municipal election by vote of the remaining members of the City Commission; provided, that if such vacancy is not filled within thirty (30) days after it has occurred, appointment to fill the existing vacancy will be made by the Governor. Vacancies resulting from a recall election shall be filled as required by state law.

Rationale – Section 11

- Clean up legalese
- Moves Section 14 to Section 11
- Moves Section 15 to Section 11
- Moves Section 20 to Section 11
- Makes absenteeism consistent with requirements for advisory boards
- Highlights public officials code of ethics
- Due process before forfeiture of Commission seat

Section 12 - Salary of members

Current Language

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

Proposed Language

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

Rationale – Section 12

- Clean up legalese

Section 13 - Limitation on successive terms in office.

Current Language

- 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.

Proposed Language

- The City Commissioners ~~shall be~~ are limited to two (2) successive terms in office. No person ~~shall be~~ is 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.

Rationale – Section 13

- Clean up legalese

Section 14 - ~~Judge of election and qualifications of members.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~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.~~
- Delete and reserve.

Rationale – Section 14

- Moved to Section 11

Section 15 - ~~Vacancies, how filled.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~Any vacancy in the City Commission shall be filled until the next regular municipal election by vote of the remaining members of the City Commission; provided, that if such vacancy is not filled within thirty (30) days after it shall have has 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.~~
- Delete and reserve.

Rationale – Section 15

- Moved to Section 11

Section 16 - Mayor—When selected; procedure; term

Current Language

(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.

Proposed Language

~~(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.~~

(a) The Mayor of the City will be elected by the voters by placement on the ballot as authorized in subsection (b) below and by receiving the highest number of votes for Mayor with such election to be held in conjunction with the regular election held for the purpose of electing City Commissioners.

(b) Candidates for the mayoral election must consist of incumbent Commissioners who are not subject to reelection to the City Commission at that same election. Any eligible candidate wishing to be considered for the position of Mayor must request in writing, no later than the City Commission's deadline for qualifying for running for City Commission in the City general election, to be placed on the ballot.

(c) The mayoral candidate on the ballot with the second highest number of votes in the mayoral election must be appointed to the Vice-Mayor position.

(d) On the occasion that only one incumbent City Commissioner should choose to be on the mayoral ballot, there is no need for the mayoral election, and the one mayoral candidate must be appointed to the position of Mayor at the City Commission's annual organizational meeting. The City Commission may choose any City Commissioner not appointed as the Mayor to be the Vice-Mayor, including newly-elected Commissioners. If no incumbent City Commissioner chooses to be on the mayoral ballot, the City Commission must vote to appoint one of the Commissioners to serve as Mayor and one Commissioner to serve as Vice-Mayor, and newly-elected Commissioners may be considered.

~~(b) (e) The Mayor and Vice Mayor shall each 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 including but not limited to Florida Sunshine Law violations, 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.~~

~~(f) On the occasion that all eligible candidates but one should withdraw from the straw ballot, election, there shall be no straw ballot election and the one remaining candidate shall be considered the primary candidate for the position of Mayor at the organizational meeting.~~

~~(g) (f) The appointee shall serve as existing Mayor and Vice Mayor will serve until the organizational meeting following the next regular general election held by the City.~~

Rationale – Section 16

- Clean up legalese.
- Changes how mayor and vice mayor are selected from current straw ballot vote to direct election by voters.

Section 17 - ~~Same~~—Functions and powers of the Mayor.

Current Language

- 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.

Proposed Language

The powers and duties of the Mayor ~~shall be as~~ are set forth in this Charter. ~~and below: and such other duties as may be conferred upon the Mayor by official action of the City Commission.~~

- (a) The Mayor ~~shall have~~ has a voice and a vote in the proceedings of the Commission but no veto power;
- (b) The Mayor ~~shall~~ does not exercise any administrative power, unless specifically set forth in this Charter;
- (c) The Mayor ~~shall~~ presides at all meetings of the Commission and performs such other duties consistent with the office, including but not limited to ensuring that every Commissioner completes an annual performance evaluation for each Charter Officer. ~~and The Mayor may use the title of Mayor in the execution of legal instruments or when required by the general or special laws of the state; and~~
- (d) The Mayor ~~shall be recognized as is~~ is the official head of the City ~~by the courts for the purpose of serving civil processes and for all ceremonial purposes.~~

Rationale – Section 17

- Clean up legalese
- Mayor responsible to ensure Charter officer evaluations are conducted

Sections 18, 19 – Reserved.

Current Language

- Sec. 18. – Reserved.
- Sec. 19. – Reserved.

Proposed Language

- No changes

Section 20 - ~~Same—Vacating seat of member for unexcused absence of specified duration.~~ Reserved.

Current Language

- 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.

Proposed Language

- Sec. 20 - Reserved.
- ~~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.—~~

Rationale – Section 20

- Moved to Section 11

Section 21 - Adoption and enactment of municipal ordinances and resolutions; quorum for City Commission.

Current Language

(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.

Proposed Language

~~(1)~~-(a) 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)~~-(b) 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 a supermajority 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.~~ In case of a serious medical condition, as provided by Florida law, a Commissioner may be permitted to vote in real time by communication media technology instead of being physically present. On final passage, the vote of each member of the City Commission voting shall must 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)~~-(c) Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and ~~shall must~~ be signed by the presiding officer and the City Clerk of the city commission.

Rationale – Section 21

- Clean up legalese
- Allow for virtual participation in medical necessity

Section 22 – ~~Reserved.~~ Boards.

Current Language

- Reserved.

Proposed Language

- The City Commission may at any time appoint a ~~fact finding or an~~ advisory board or ~~boards-~~ committee, on a standing or ad hoc basis, 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 or committee ~~shall~~ serve without compensation for the time fixed in their appointment or at the pleasure of the Commission, and their duties ~~shall be~~ are to consult and advise with ~~such~~ municipal officers and make written recommendations, which ~~shall~~ then become part of the records of the City.

Rationale – Section 22

- Moved from Sec. 69 for relevance.

Section 23, 24 – Reserved.

Current Language

- Sec. 23. – Reserved.
- Sec. 24. – Reserved.

Proposed Language

- No changes

Section 25 – City Manager appointment; tenure of office; qualifications; ~~manager pro tem~~.

Current Language

- 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.

Proposed Language

- The City Commission ~~shall~~ must appoint a City Manager who ~~shall be~~ is the administrative head of the municipal government under the direction and supervision of the City Commission and ~~shall~~ holds office at the pleasure of the City Commission. The City Manager ~~shall~~ must 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~~ 90 days after executing the Oath of Office, the City Manager ~~shall~~ must become a resident of the City. ~~The City Manager must have prior management experience managing at least one government organization with at least 250 employees and several departments, be a member in good standing of a professional organization such as the International City/County Management Association, and the Commission must consider more than one (1) qualified candidate for City Manager. The City Manager must be a member in good standing of a professional organization such as the International City/County Management Association prior to appointment or within six (6) months after appointment.~~ The City Commission ~~may~~ will establish an appropriate contract for the City Manager, which ~~shall~~ contains 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.~~

Rationale – Section 25

- Clean up legalese
- Expand time for new City Manager to relocate
- Added minimum qualifications for City Manager

Section 26, 27, 28 – Reserved.

Current Language

- Sec. 26. – Reserved.
- Sec. 27. – Reserved.
- Sec. 28. – Reserved.

Proposed Language

- No changes

Section 29 - Powers and duties enumerated.

Current Language

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.

Proposed Language

The City Manager shall be is responsible to the City Commission for the proper administration of all affairs of the City, and to that end he has the following powers and duties 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 setting the compensation for officers and employees; 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 contract 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 deemed 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 and five-year capital improvement plan;
- (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) (h) 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 the 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 must conform to such regulations as the City Commission may from time to time prescribe. To be responsible for the procurement, sale of surplus, management, payment, and contract compliance for all supplies, services, and construction contracts, including any Federal, State, or other grant funded activity, at the direction of the City Commission and in accordance with all applicable City, State, or Federal laws and regulations, and~~
- (j) (i) To designate a City Manager pro tem to be approved by the City Commission to serve in case of absence or disability of the City Manager.

Rationale – Section 29

- Clean up legalese
- Require City Manager to designate pro tem
- Require CM to prepare a capital improvement plan

Section 30 – ~~Reserved.~~ Salaries and compensation.

Current Language

- Sec. 30. – Reserved.

Proposed Language

- The City Manager shall fix the number and compensation of all other officers and employees. The salaries or compensation so fixed shall must be uniform for like services in each grade of the City service, as the same shall will 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 must be immediately reported to the City Clerk. All fees and moneys received or collected by officers and employees shall must be immediately paid over to the City Comptroller on the date of their receipt.

Rationale – Section 30

- Moved from Sec. 120 for relevancy
- Clean up legalese

Section 31 - City Attorney tenure of office; qualifications; appointment and duties; attorney

~~Current Language~~ pro tem

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.

Proposed Language

a) ~~Appointment; tenure of office; qualifications; and attorney pro tem.~~ The City Commission shall must appoint a City Attorney, who shall acts 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 serves under the direction and supervision of the City Commission and shall holds office at the pleasure of the City Commission. The City Attorney shall must be chosen on the basis of legal and administrative qualifications. The City Attorney must be a lawyer admitted to and having authority to practice in all courts of the state, including circuit and district appellate courts of Florida. The City Attorney must also be admitted to practice in the federal Middle District of Florida court and the 11th Circuit Appeals court or be admitted within six months of taking the Oath of Office. It is preferred that the City Attorney be board certified in City, County and Local Government Law by the Florida Bar Association.

(b) The City Commission shall must establish an appropriate contract for the City Attorney, which shall contains 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 must designate a properly qualified person to temporarily execute the functions of the office.

~~b) (c) Powers and duties enumerated.~~ The City Attorney shall be is 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 are the following:

- 1) Prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and shall endorses on each the City Attorney's approval;
- 2) ~~The City Attorney shall be is authorized to take~~ such action required to avoid default judgment against the City in any litigation and shall must 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 must 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 has the authority to hire, direct, promote and terminate the employees in the City Attorney's Office, notwithstanding Section 29(b) herein; and
- 4) For the purpose of serving during the absence or disability of the City Attorney, the City Attorney must propose a list of qualified attorneys for approval by the City Commission from which the City Commission may choose a City Attorney pro tem.

Rationale – Section 31

- Clean up legalese
- Incorporate Sections 32 and 33

Section 32 - ~~Additional duties.~~ Attorney pro tem.

Current Language

- 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.

Proposed Language

- ~~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.~~ For the purpose of serving during the absence or disability of the City Attorney, the City Attorney must propose a list of qualified attorneys for approval by the City Commission from which the City Commission may choose a City Attorney pro tem.

Rationale – Section 32

- Delete and move attorney pro tem language to Section 31
- Reserve

Section 33 - Qualifications

Current Language

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

Proposed Language

- ~~The City Attorney shall must be a lawyer admitted to and having authority to practice in all courts of the state, including circuit and district appellate courts of Florida. The City Attorney must also be admitted to practice in the federal Middle District of Florida court and the 11th Circuit Appeals court or be admitted within six months of taking the Oath of Office. It is preferred that the City Attorney be board certified in City, County and Local Government Law by the Florida Bar Association.~~

Rationale – Section 33

- Delete and move to Section 31
- Reserve

Section 34, 35, 36, 37, 38 – Reserved.

Current Language

- Sec. 34. – Reserved.
- Sec. 35. – Reserved.
- Sec. 36. – Reserved.
- Sec. 37. – Reserved.
- Sec. 38. – Reserved.

Proposed Language

- No changes

Section 39, 40 – Reserved.

Current Language

- Sec. 39. – Reserved.
- Sec. 40. – Reserved.

Proposed Language

- No changes

Section 41 - Police ~~force~~ department— Composition; authority of chief.

Current Language

- 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

Proposed Language

- The police ~~force~~ department of the City of Fernandina [Beach] ~~shall consist of~~ a chief of police and as many subordinate officers, ~~policemen/policewomen~~ and employees as the City Commission ~~shall by resolution determine by ordinance~~. The chief of police ~~shall have~~ has exclusive control of the stationing and transfer of all ~~patrolmen and other~~ officers and employees constituting the police force department, 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. In case of riot, conflagration or like emergency, the City Manager may appoint additional police personnel for temporary service. A referendum election is required prior to the City dissolving the police department of the City or contracting out law enforcement services to another agency.

Rationale – Section 41

- Clean up legalese
- Prohibits dissolution of police department solely by Commission vote
- Allows for emergency temporary appointments for additional police officers (repeats language already given to fire department)

Section 42, 43 – Reserved.

Current Language

- Sec. 42. – Reserved.
- Sec. 43. – Reserved.

Proposed Language

- No changes

Section 44 - Fire ~~force~~department; composition; authority of chief.

Current Language

- 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.

Proposed Language

- The fire ~~force~~ department of the City ~~shall~~ consists 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, determines. The fire chief ~~shall have~~ has exclusive control of the stationing and transfer of all firefighter/rescue personnel and other officers and employees of the fire ~~force~~ department subject to such rules and regulations as may be prescribed by the City Manager or by ordinance of the City; ~~he shall have~~ the fire chief has exclusive management and control of such officers and employees as may be employed in the administration of the affairs of ~~his~~ the force. In case of riot, conflagration or like emergency, the City Manager may appoint additional firefighter/rescue personnel for temporary service. A referendum election is required prior to the City dissolving the fire department of the City or contracting out fire/rescue services to another agency.

Rationale – Section 44

- Clean up legalese
- Prohibits dissolution of fire department solely by Commission vote

Section 45 - ~~Public utilities.~~ Reserved.

Current Language

- 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.

DELETE and Reserve Sec. 45.

- ~~The City of Fernandina Beach shall have has 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.~~

Rationale – Section 45

- Move to Sec. 7 because that is where municipal powers are stated.

Section 46 – City Clerk appointment; tenure of office; qualifications; and clerk pro tem. Reserved

Current Language

- 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.

Proposed Language

- ~~The City Commission shall must appoint a City Clerk, who shall serves under the direction and supervision of the City Commission and shall holds office at the pleasure of the City Commission. The City Clerk shall must be chosen on the basis of administrative qualifications. The City Clerk must be a member in good standing of a professional organization such as the Florida Association of City Clerks. The City Commission shall must establish an appropriate contract for the City Clerk, which shall contains 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.~~

Rationale – Section 46

- Delete and move to Sec. 47
- Reserve

Section 47 – City Clerk appointment and qualifications; powers and duties enumerated; and City Clerk pro tem.

Current Language

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.

Proposed Language

(a) The City Commission must appoint a City Clerk, who serves under the direction and supervision of the City Commission and holds office at the pleasure of the City Commission. The City Clerk must be chosen on the basis of administrative qualifications. The City Clerk must be a member in good standing of a professional organization such as the Florida Association of City Clerks. The City Commission must establish an appropriate contract for the City Clerk, which contains the employment conditions, compensation, benefits and such other terms as may be appropriate.

(b) 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) 1. 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) 2. The City Clerk shall be the custodian of the seal of the City;

c) 3. 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) 4. Countersign all checks and review outgoing checks to determine compliance with the City's established Purchasing Policy and Procedures;

e) 5. 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) 6. Authenticate all ordinances, resolutions and transcripts of legislative functions;

g) 7. Publish all public notices required by the City Commission or by law;

h) 8. Prepare all awards, proclamations, certificates and other formal Documentation by the City Commission;

i) 9. Notify the City Commission of all vacancies on boards or committees established by the City Commission;

j) 10. File all liens, satisfactions and releases as authorized by the Mayor or City Manager;

k) 11. Serve as notary public on behalf of the City and attest all City documents as required;

l) 12. 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

Rationale – Section 47

- Clean up legalese
- Require maintenance of city boundary map
- Add minimum qualifications for City Clerk

Section 48-57 – Reserved.

Current Language

- Sec. 48. – Reserved.
- Sec. 49. – Reserved.
- Sec. 50. – Reserved.
- Sec. 51. – Reserved.
- Sec. 52. – Reserved.
- Sec. 53. – Reserved.
- Sec. 54. – Reserved.
- Sec. 55. – Reserved.
- Sec. 56. – Reserved.
- Sec. 57. – Reserved.

Proposed Language

- No changes

Section 58 - Department of Finance established.

Current Language

- 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.

Proposed Language

- There ~~shall be~~ is established a department of Finance, which ~~shall be~~ is headed by a City Comptroller, ~~who shall be~~ under the supervision of the City Manager. The City Comptroller must be a Certified Public Accountant (CPA) or have the same training and qualifications as a CPA. The Comptroller must be a member in good standing of the Florida Government Finance Officers Association within six (6) months of starting employment with the City. The City Comptroller ~~shall be~~ is the custodian of all ~~monies~~ funds of the City and ~~shall~~ keeps, preserves, reconciles, records, invests and deposits 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.

Rationale – Section 58

- Clean up legalese
- Adding minimum qualifications

Section 59 - ~~Bond~~. Liability Insurance.

Current Language.

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

Proposed Language

- The City Comptroller ~~shall give a bond in the amount established by ordinance of the city commission from time to time~~ must have insurance for professional liability to protect the City.

Rationale – Section 59

- Require liability insurance in accordance with current practice.

Section 60 - Collection of interest on investments or deposits.

Current Language

- 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.

Proposed Language

- All moneys due as interest upon investments or deposits ~~shall be~~ is 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~~ are held by the City Comptroller for safe keeping for the benefit of the City. The Comptroller must propose sound, written investment policies which are approved by the City Commission.

Rationale – Section 60

- Clean up legalese
- Added duty to provide investment plan

Section 61 - ~~Collection of taxes, license fees and all moneys belonging to city.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~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.~~
- Delete and reserve.

Rationale – Section 61

- Redundant, Section 58 covers the same

Section 62 - Payment of moneys; procedure.

Current Language

- 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.

Proposed Language

- The City Comptroller ~~shall~~ issues checks to be paid from City funds only in accordance with established procedures, which procedures ~~shall~~ must 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~~ must be established by resolution.

Rationale – Section 62

- Clean up legalese

Section 63 - Reserved.

Current Language

- Sec. 63. - Reserved.

Proposed Language

- No changes

Section 64 - Financial report; submission to Commission monthly.

Current Language

- 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.

Proposed Language

- At a regular City Commission meeting, the City Comptroller ~~shall~~ will submit monthly 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~~ will 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. In addition, the City Comptroller must schedule an annual financial audit of accounts and records by an independent certified public accountant in accordance with state law.

Rationale – Section 64

- Clean up legalese
- Requiring report monthly, annual financial audit

Section 65, 66, 67, 68 – Reserved.

Current Language

- Sec. 65. – Reserved.
- Sec. 66. – Reserved.
- Sec. 67. – Reserved.
- Sec. 68. – Reserved.

Proposed Language

- No changes

Section 69 - ~~How constituted.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~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 are to consult and advise with such municipal officers and make written recommendations, which shall become part of the records of the City.~~
- Delete and reserve.

Rationale – Section 69

- Moved to Sec. 22

Section 70 - Reserved.

Current Language

- Sec. 70. - Reserved.

Proposed Language

- No changes

Section 71 - Annual estimate of expenditures and revenues for forthcoming year; submission to City Commission by City Manager.

Current Language

- 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.

Proposed Language

- (a) In accordance with Section 29(g), the City Manager shall sets forth an estimate of the expenditures and revenues of the City for the upcoming fiscal year. The estimate of expenditures and revenues must ~~shall~~ be submitted in compliance with the procedures set forth in the laws of Florida.
- (b) The estimates, and budget and 5-year capital improvement plan ~~so given and constituting the recommendation of the City Manager as to the amounts necessary to be appropriated for the ensuing fiscal year shall~~ must 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.

Rationale – Section 71

- Clean up legalese
- Adds reference to Capital Improvement Plan

Section 72 - ~~Annual budget and appropriation.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~The City Commission shall abides by the laws of the State of Florida in the preparation, submission and publication of its annual budget and appropriation by ordinance or resolution.~~
- Delete and reserve.

Rationale – Section 72

- This is required under Florida Law and therefore redundant.

Section 73 - Reserved.

Current Language

- Sec. 73. - Reserved.

Proposed Language

- No changes

Section 74 - Transfer of funds.

Current Language

- 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.

Proposed Language

- Upon request of the City Manager, the City Commission may authorize a budget amendment or budget transfer by resolution. The City Manager ~~shall be~~ is 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; provided, however, this authorization does not extend to any funds received for or maintained in the Fernandina Beach Land Conservation Trust Fund.

Rationale – Section 74

- Clean up legalese
- Prohibits conservation trust funds from being transferred.

Section 75 - Limitation on appropriations.

Current Language

- 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.

Proposed Language

- At the close of each fiscal year the unencumbered balance of each appropriation ~~shall~~ reverts to the respective fund from which it was appropriated and ~~shall be~~ is 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~~ has 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~~ may 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. No funds received for or maintained in the Fernandina Beach Land Conservation Trust Fund may be appropriated for or applied to any expenditure for any purpose other than those set forth in the Fernandina Beach Land Conservation Program.

Rationale – Section 75

- Clean up legalese
- Restricts appropriations from conservation trust fund for conservation use only

Section 76, 77 - Reserved.

Current Language

- Sec. 76. - Reserved.
- Sec. 77. - Reserved.

Proposed Language

- No change

Section 78 - ~~Ad valorem taxes.~~ Reserved.

Current Language

- (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.

Proposed Language

- ~~(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 will 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.~~

Delete and reserve.

Rationale – Section 78

- (a) and (b) are authorized under Florida law and therefore redundant
- (c) is incorporated into Sec. 79

Section 79 - ~~Regulatory~~ Fees.

Current Language

- 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.

Proposed Language

(a) 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.

(b) Pursuant to and in compliance with the laws of the State of Florida, the City 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.

Section 80 - Reserved.

Current Language

- Sec. 80. – Reserved.

Proposed Language

- No changes

Section 81 – Comptroller Certification of funds for contracts, obligations, etc.

Current Language

- 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.

Proposed Language

- ~~No contract, agreement, or other obligation involving the expenditure of money shall may 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 will be considered appropriated until the City is discharged from the contract, agreement or obligation.~~
- The Comptroller must certify to the City and the City Commission that money to be expended for an obligation, such as a contract, is contained in the City account from which it is to be drawn and not appropriated for any other purpose prior to any action being taken by the City Commission or any City employee that commits the City to incur the obligation.

Rationale – Section 81

- Clean up legalese

Section 82—107 - Reserved.

Current Language

- Secs. 82—107. - Reserved.

Proposed Language

- No changes

Section 107A. - ~~Community redevelopment areas.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~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.~~
- Delete and reserve.

Rationale – Section 107A

- Remove restriction on potential funding mechanism for improvements

Sections 108—119 - Reserved.

Current Language

- Secs. 108—119. - Reserved.

Proposed Language

- No changes

Section 120 - ~~Salaries and compensation.~~

Reserved.

Current Language

- 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 comptroller on the date of their receipt.

Proposed Language

- ~~The City Commission shall fixes, by ordinance, the salary or compensation of the City Attorney, the department heads, the City Manager, City Clerk, and the city commission. The city manager shall fixes the number and compensation of all other officers and employees. The salaries or compensation so fixed shall must be uniform for like services in each grade of the city service, as the same shall will 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 must be immediately reported to the City Clerk. All fees and moneys received or collected by officers and employees shall must be immediately paid over to the city Comptroller on the date of their receipt.~~
- Delete and reserve.

Rationale – Section 120

- 1st sentence deleted for redundancy
- Moved to Sec. 30 for relevancy

Section 121 - Oath of office.

Current Language

- 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.

Proposed Language

- Every officer and employee of the City ~~shall~~must, before entering upon the duties of ~~his office~~employment or office, take and subscribe to an oath or affirmation to be filed and kept in the office of the City Clerk, which ~~oath~~must be in compliance with state law and at a minimum be in the following form:

"I, , a citizen of the State of Florida and of the United States of America, and being employed by or an officer of the City of Fernandina Beach and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida, and I will support the laws of the State of Florida and the laws and policies of the City of Fernandina Beach. including without limitation, **the City's Comprehensive Plan and** the standards of conduct prescribed by the Florida Code of Ethics for Public Officers and Employees. I further promise to fairly and honestly use my position to support the best interests of the citizens of Fernandina Beach."

Rationale – Section 121

- Clean up legalese
- Includes revised oath of office to include state law requirements ethics language

Section 122 - ~~Official bonds.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~The City Commission or City Manager, in fixing the salary of any officer, clerk or employee shall determines whether or not such officer, clerk or employee shall may give bond, and the amount thereof, which bond shall must 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 must be filed in the office of the City Clerk.~~
- Delete and reserve.

Rationale – Section 122

- Redundant to Sec. 59

Sections 123, 123A, 124 – Reserved.

Current Language

- Sec. 123. – Reserved.
- Sec. 123A. – Reserved.
- Sec. 124. – Reserved.

Proposed Language

- No changes

Section 125 - ~~Election arrangements; declaration of election results; appointment of inspectors.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~The City Commission shall makes all necessary arrangements for holding all municipal elections, and shall declares the result thereof. Inspectors, poll workers and clerks of election shall be are appointed by the city commission except that if the commission shall fails 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.~~
- Delete and reserve.

Rationale – Section 125

- This process is done through the Nassau County Supervisor of Elections in conjunction with the City Clerk's office as covered by Sec. 47(c).

Sections 125A. - 135 - Reserved.

Current Language

- Secs. 125A—135. - Reserved.

Proposed Language

- No changes

Section 136 - Administrative investigations.

Current Language

- 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.

Proposed Language

- (a) The City Commission ~~shall~~ may by majority vote authorize investigations by resolution. The City Commission, Charter Officers and members of City Commission appointed boards, 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 each shall have~~ has the 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 must be signed by the Mayor or the City Manager and shall must be served by any officer authorized by law to serve such process.~~
- (b) The authority making such investigation ~~shall have~~ has the 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.~~ The authority has the power to punish as for contempt any person refusing to testify to any fact within ~~his~~ their knowledge, or produce any book or papers under ~~his~~ their control relating to the matter under investigation.
- (c) Nothing in this section should be construed to limit the Charter Officers' ability to inquire into matters under their respective areas of responsibility.

Rationale – Section 136

- Clean up legalese
- Allowing Charter Officers and advisory boards administrative investigatory powers
- Clarifying that investigations require a majority vote by the Commission

Section 137 - Dedication of streets.

Current Language

- 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.

Proposed Language

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

Rationale – Section 137

- Clean up legalese

Sections 138-140- Reserved.

Current Language

- Secs. 138—140. - Reserved.

Proposed Language

- No changes

Section 141 - ~~General laws of state to apply.~~ Reserved.

Current Language

- 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.

Proposed Language

- ~~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 are applicable to this city; provided, however, that nothing contained in this Charter shall be is 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.~~
- Delete and reserve.

Rationale – Section 141

- Moved to Sec. 7b.

Section 142 – ~~Reserved~~ Charter Amendment and Review.

Current Language

- Sec. 142. – Reserved.

Sec. 142. Charter Review.

- (a) This Charter may be amended by either (1) ordinance proposed and adopted by the City Commission or (2) petition proposed and signed by at least 10 percent of the total number of qualified voters registered to vote in the last regular City election: in each case, in accordance with Florida Statute 166.031
- (b) Beginning in 2027, and at least once every eight (8) years thereafter, the City Commission must appoint a Charter Review Committee, of not less than seven (7) members from the City electors to review the City Charter and propose to the City Commission any amendments or revisions, which may be advisable for placement on the election ballot. The City Attorney is responsible for supporting such committee with staff and legal advice.

Rationale – Section 142

- Requires regular review of Charter with the City Attorney responsible for overseeing the process

Section 143 - Savings clause.

Current Language

- 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.

Proposed Language

- If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same ~~shall not be held to~~ does not 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.

Rationale – Section 143

- Clean up legalese

Section 144 - When this Charter becomes effective

Current Language

- 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

Proposed Language

- 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 or general election to be held in the City of Fernandina Beach.

Rationale – Section 144

- Clean up legalese