

Subpart A - CHARTER<sup>[1]</sup>

Footnotes:

ARTICLE I. - CORPORATE EXISTENCE, POWERS, AND BOUNDARIES

Section 1.01. - Corporate existence and powers.

- (a) *General Powers.* The City of Clearwater, Florida, (the "city"), created by Chapter 9710, Special Laws of Florida, 1923, as amended, exists as a municipal corporation with all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services. The city may exercise any power for municipal purposes except when expressly prohibited by law. In addition to the powers enumerated herein, the city shall be vested with all powers granted by general or special acts of the Legislature of the State of Florida or as otherwise provided by law.
- (b) *Exercise of Powers.* The city may exercise its powers and perform and finance any of its functions, by contract or otherwise, jointly or with any one or more states or political subdivisions or agencies thereof, or the United States or any agency thereof, or with any person as defined by law.
- (c) *Construction.* The powers of the city under this charter shall be construed liberally in favor of the city. The city is empowered to do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants. The specific mention of a particular power in this charter shall not be construed as limiting the general power stated in this Section of Article I.

(6372-99, § 1, 1-21-99/3-9-99)

Section 1.02. - Corporate boundaries.

The corporate boundaries of the city shall be as they exist on the date this charter takes effect, provided that the city may change its boundaries in the manner prescribed by law.

ARTICLE II. - LEGISLATIVE POWER

Section 2.01. - Council; composition; powers.

- (a) *Composition.* There shall be a city council, (the "council"), composed of ~~five~~seven council members, including the mayor. The members will occupy seats numbered one through ~~five~~seven, inclusive. All members shall be elected at large by the voters of the city.
- (b) *Powers.* All legislative power of the city shall be vested in the council, except as otherwise provided by law or the provisions of this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the city by law.

(c) *Duties.* It shall be the duty of the council to discharge the obligations and responsibilities imposed upon the council by state law, city ordinance and this charter. As a part of the discharge of its duty, the council shall:

1. 4. Each October at a public meeting, present a report on the evaluation of the performance of the city manager and city attorney.

2. Establish annual measurable goals and priorities for the City Manager.

3. Each councilmember shall perform an annual evaluation of the City Manager and the City Attorney based on specific uniform criteria developed by the council.

4. 2. Adopt by ordinance a comprehensive system of fiscal management. The fiscal management ordinance shall include provisions relating to the operating budget, capital budget and capital program, and provide for hearings on the budget, capital budget and capital program and the amendment of the budget following adoption.

2.5. 3. Provide for an annual or more frequent independent audit of all city accounts by a firm of certified public accountants, and provide for publication of a notice of availability of each audit. No firm shall be employed for more than five consecutive years. All audits shall be in accordance with law.

6. 4. Regulate comprehensive planning, zoning and land development as provided by law.

7. Research and report the environmental impact of all decisions with the goal of reducing our energy consumption, waste generation, our dependence on fossil fuels and production of greenhouse gasses.

(d) *Limitations.* The legislative power provided herein shall have the following limitations:

(1) The total indebtedness, which for the purpose of this limitation shall include revenue, refunding, and improvement bonds of the city, shall not exceed 20 percent of the current assessed valuation of all real property located in the city. The total budgeted expenditures in any fiscal year shall not exceed the total estimated revenue plus any unencumbered funds carried forward from a prior fiscal year.

(2) The city council shall by ordinance adopt procedures for the purchase or rental of goods and services.

(3) Any non-budgeted expenditure in excess of \$5 million must be approved by the council at two separate meetings held at least two weeks apart and advertised notice of a public hearing must be given at least five days prior to the second meeting.

(4) With the exception of maintenance or emergency dredging, or dredging relating to those portions of Dunedin Pass and Stevenson's Creek located within the boundaries of the city, permits for dredging or filling in excess of

10,000 cubic yards below the mean high water line may be authorized only after a properly advertised public hearing before the council and approval at referendum.

(5) Real property.

- (i) Prior to the sale, donation, lease for a term longer than five years, or other transfer of any municipal real property, the real property must be declared surplus and no longer needed for municipal public use by the council at an advertised public hearing. Except in the case of right-of-way dedications, the granting of easements, transactions with governmental entities as described herein, ~~or conveyance for Workforce or Affordable Housing,~~ or conveyance of an uneconomic remainder of land, no real property may be given away or donated without prior approval at referendum. Following a public hearing, the City Council may approve the donation or sale for less than fair market value of city-owned property of not more than ~~one-half acre~~ five acres in size for workforce or affordable housing. Workforce or Affordable Housing means housing affordable to persons or families whose total annual income does not exceed 120 percent of the Area Median Income (AMI), adjusted for household size, as published by the U.S. Department of Housing and Urban Development (HUD) for Pinellas County or metropolitan area. Following a public hearing, the City Council may approve the donation or sale for less than fair market value of city-owned property that has been determined by Council to be an uneconomic remainder of land to the owner of real property adjacent to said uneconomic remainder. For the purposes of this provision, an uneconomic remainder of land means real property owned by the City of Clearwater with characteristics such as size, shape, limited access or other limiting characteristics that prevent meaningful development of the property.
- (ii) Except as otherwise provided herein, real property declared surplus shall be sold to the party submitting the highest competitive bid above the appraised value whose bid meets the terms set by the council and whose proposed use of the property is in accordance with the council's stated purpose for declaring the property surplus, if any. However, when the property declared surplus is vacated right-of-way in which the city owns the fee interest and the vacated right-of-way is abutted by a single property owner, no competitive bid shall be required; and the city may sell the property to the abutting property owner for not less than fair market value.
- (iii) Surplus real property may be transferred to another governmental entity for less than the appraised value after an advertised public hearing has been held and a finding by the council of a valid public purpose for the transfer.

- (iv) Surplus real property may be exchanged for other real property having a comparable appraised value.
  - (v) No municipally owned real property which was identified as recreation/open space on the city's comprehensive land use plan map on November 16, 1989, or at any time thereafter, may be sold, donated, leased for a new use, or otherwise transferred without prior approval at referendum, except when the council determines it appropriate to dedicate right-of-way from, or easement over, such property. Such recreation/open space property may be leased for an existing use, without referendum, unless such lease is otherwise prohibited by charter or ordinance.
  - (vi) No right-of-way or easement which terminates at, or provides access to, the water's edge of a body of fresh or salt water may be vacated for private benefit. Nothing contained in this section shall prevent an easement solely for utility purposes from being vacated, exchanged for a new easement for similar purposes or from converting a fee interest for utility purposes into an easement for such purposes.
  - (vii) The council may lease municipal real property for five years or less without declaring it surplus. Municipal real property declared surplus may be leased for a term up to 65 years, provided, however, nothing herein shall preclude renewal of any lease for a maximum of 30 years. Municipal property declared surplus may be leased for an initial period of more than 65 years or a renewal period exceeding 30 years, if approved at referendum, but not to exceed 95 years total.
  - (viii) All leases of municipal real property shall contain recapture and reverter clauses.
  - (ix) When purchasing real property for less than \$500,000.00, the council shall obtain an appraisal performed by city staff or independent certified appraiser. If the purchase price of such property equals or exceeds \$500,000.00 but is less than \$1,000,000.00, the council shall obtain at least one appraisal by an independent certified appraiser. If the purchase price of such property equals or exceeds \$1,000,000.00, the council shall obtain at least two appraisals by independent certified appraisers.
- (6) No municipal or other public real property lying west of Osceola Avenue, east of Clearwater Harbor between Drew and Chestnut Streets, being further described in Appendix A, and no municipal or other public real property constituting the Memorial Causeway or lands immediately contiguous thereto, more particularly described as:

That portion of Memorial Causeway (S.R. 60) a 1,200-foot-wide right-of-way, lying between the east abutment of the west bridge and the east line of Clearwater Harbor, and the submerged portions of Board of Trustees of the Internal Improvement Trust Fund Deed Numbers 17,500 and 17,502, shall be developed or maintained other than as open space and public utilities together with associated appurtenances, except upon a finding by the council at a duly

advertised public hearing that such development is necessary in the interest of the public health, safety and welfare of the citizens of the city and approval of such finding at referendum, conducted subsequent to the public hearing.

For the purpose of this section "open space" shall include plazas, sidewalks, boardwalks, elevated walkways, paths, trails, roadways, stairs, benches, tables, water fountains, litter receptacles, lighting, wayfinding and similar amenities and surface parking. As an exception to the open space limitation contained herein, the following uses and facilities are allowed to be constructed and maintained on that portion of the city-owned property lying west of Osceola Avenue, east of Clearwater Harbor between Drew and Pierce Streets: a city-owned bandshell and associated facilities including removable seating; city-owned tennis courts and associated appurtenances, playground, splash pad, water features, artwork and similar amenities; public restrooms and park storage. Additionally, licensing of events, temporary booths for vending, and mobile concessions may be permitted.

Notwithstanding any provision of this section to the contrary, city-owned public docks, promenade, side tie moorings and not more than 140 dedicated boat slips for recreational non-commercial vessels, together with public restrooms and dock master offices which shall not exceed 1,200 square feet and associated surface parking, may be constructed, operated and maintained in and on that portion of Clearwater Harbor and abutting uplands generally located south of Drew Street, north of Smith's Finger, east of the Intracoastal Waterway Channel and west of the Bluff as more particularly described in Appendix B. Potable water, shore power, sewage pump out and restroom facilities may be provided to and located on the slips, docks and moorings. The dockmaster's office may include coin-operated washers and dryers and sale of ice. The parking for the facility, which may be designated for use by slip tenants, shall be existing surface parking which shall be brought up to code and shall not result in any net loss of green space. City may permit ferries, water taxis, excursion boats and similar uses to access the docks for drop off and pick up of passengers, booths for ticket sales, and directional signage. The promenade shall be constructed on a portion of the footprint of the prior bridge. City council shall adopt by resolution regulations that provide city residents first priority for the dedicated boat slips and which ensure public access to the docks, boardwalks and promenade, however nothing herein shall prohibit fencing and gates for security. Concessions for rental of non-motorized recreational equipment, including but not limited to canoes, kayaks, paddleboards, and paddleboats may be permitted and a restroom and boathouse structure not to exceed 2,000 square feet for storage of said equipment may be permitted. Except for a ramp for launching of non-motorized recreational equipment, including but not limited to canoes, kayaks, paddleboards, and paddleboats, no boat launching ramps, fueling facilities or parking garage shall be permitted.

- (7) No city owned real property in the area bounded on the north by Drew Street, on the east by Osceola Avenue, on the south by Pierce Street, and on the west

by the waters of Clearwater Harbor, shall be sold, donated, leased, or otherwise transferred or used for other than city facilities except upon a finding by the council at a duly advertised public hearing that such transfer or use is necessary and in the interest of the public health, safety and welfare of the citizens of the city and the approval of such finding at referendum. Except that the structure known as Harborview Center, as described in Appendix B may be leased for and used in furtherance of any municipal purpose consistent with the charter and ordinances of the city; and, portions of the Downtown Main Library may be leased and used for a café or restaurant, special events, art galleries, maker space, and other compatible public and commercial uses. Additionally, the council at a duly advertised public hearing, may grant easements for underground utilities.

- (8) ~~Notwithstanding and as an exception to anything contained in section 2.01(d)(5), (6) and (7) herein, and the City Council is authorized to:~~
- ~~(a) Negotiate and enter into a ground lease with the Clearwater Marine Aquarium for an initial term of not to exceed 60 years for redevelopment of certain municipally owned real property in the Downtown generally described as generally lying west of Osceola Ave., east of the unimproved Pierce Boulevard right-of-way, south of Cleveland St. and north of Pierce St., as more specifically described in Appendix C, for compensation to be determined by City Council which may be less than fair market value, for the purpose of construction, operation and maintenance of an aquarium as specifically described herein.~~
  - ~~(b) Negotiate and enter into a lease allowing the construction, operation and maintenance of an Aquarium which shall not exceed 250,000 square feet and may include the following components: Exhibit space including exhibit space for traveling exhibits: Animal hospital including Surgical Suite and medical laboratory; Water Quality laboratory; Classrooms and Community rooms; Food and catering facilities; Theaters; Laundry facilities; Retail/Gift shop; Administrative offices; Video/film production facilities; Mechanical space i.e. chiller, boiler, power generation; Chemical storage rooms, dry and liquid; Life Support equipment rooms i.e. filters, pumps, ozonators, backwash recovery systems, water storage; Saltwater pumping station; Driveways, Delivery and loading and unloading zone. Pick-up/drop-off zone: and drainage facilities: and such other functions as a typically associated with an aquarium of similar size.~~
  - ~~(c) Grant necessary easements for driveways, utilities and salt water intake and discharge as permitted by the appropriate agencies.~~
  - ~~(d) Authorize relocation of the tennis courts to a location to be determined by the City Council.~~
  - ~~(e) If at any time prior to commencement of construction of the Aquarium, CMA abandons the project or fails to meet material obligations under the lease, or if the City Council does not approve a lease pursuant hereto on or before June 15th, 2015 the exemptions contained in this § 2.01(d)(8) shall expire and have no further force and effect.~~

(Ord. No. 6373-99, §§ 1, 2, 1-21-99/3-9-99; Ord. No. 7237-03, § 1, 12-18-03/3-9-04; Ord. No. 7777-07, § 1, 1-18-07/3-13-07; Ord. No. 7901-07, §§ 1, 2, 11-15-07/1-29-08; Ord. No. 8298-11, § 1, 12-1-11/1-31-12; Ord. No. 8418-13, § 2, 6-19-13/11-5-13; Ord. No. 8808-15, § 1, 12-3-15/3-15-16; Ord. No. 8809-15, § 1, 12-3-15/3-15-16; Ord. No. 9063-17, § 2, 8-3-17/11-7-17)

Section 2.02. - Qualifications.

Members of the council shall be qualified voters of the city and shall have continuously resided in the city for at least one year prior to submitting a petition for election. The council shall be the judge of the election and the other qualifications of its members and of the grounds for forfeiture of their office.

Section 2.03. - Election and terms.

Commencing with the terms beginning in 2008, all council members, including the mayor, shall be elected for terms of four years. Terms shall overlap, with two council members and the mayor elected one year, and the additional two council members elected two years later.

No person who has, or but for resignation or forfeiture of office would have, served as a council member for two consecutive full terms shall serve as a council member other than mayor for the succeeding four-year term. No person who has, but for resignation or forfeiture of office would have, served as mayor for two consecutive full terms, shall serve as mayor or council member for the succeeding four-year term. Term limits shall be effective for each respective seat on the date of the next election for that seat after 1994.

Newly elected council members shall take office the next business day following certification of city election returns.

(Ord. No. 63-74-99, § 1, 1-21-99/3-9-99; Ord. No. 7902-07, § 1, 11-15-07/1-29-08)

Section 2.04. - Compensation and expenses.

The council may determine the annual salary of council members and the mayor by ordinance. No ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election, occurring at least six months following the adoption of such ordinance. Council members shall be reimbursed their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.05. - Mayor, functions, and powers.

The mayor shall preside at all meetings of the council, perform such other duties consistent with the office as may be imposed by the council and this charter, and shall have a voice and a vote in the proceedings of the council, but no veto power. The mayor may execute legal instruments on behalf of the city or otherwise as required by law. This authorization does not confer upon the mayor administrative duties except as

required to carry out the responsibilities stated in this charter. The mayor shall be recognized as the official head of the city by the courts for the service of process, by the governor for purposes of military law, and for all ceremonial purposes.

At the first council meeting each April, the council shall elect one of its members as vice-mayor. The vice-mayor shall act as mayor during the temporary absence or inability of the mayor to perform the duties of the office of the mayor.

Section 2.06. - Prohibitions.

- (a) *Appointments and removals.* Neither the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the city manager, or any of the city manager's subordinates, is empowered to appoint.
- (b) *Dealing through city manager.* Except during an investigation, the council members shall deal with city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager. Neither the council nor its members shall give orders to any such officer or employee, either publicly or privately. Recommendations for improvement in city operations by individual council members shall be made to and through the city manager.

Nothing in the foregoing paragraph prohibits individual members of the council from asking questions and observing city operations so as to obtain independent information to assist them in the formulation of policy.

- (c) *Holding other office.* No present or former council member shall hold any compensated appointive city office or employment until ~~one year~~two years after the expiration of the term for which such council member was elected.

Section 2.07. - Vacancies; forfeiture of office; filling vacancies; advisory boards.

- (a) *Vacancies.* The office of a council member shall become vacant upon the death, resignation, removal from office in any lawful manner, or forfeiture of the office, such forfeiture to be declared by the remaining members of the council.
- (b) *Forfeiture of office.* A council member shall forfeit such office if such member:
  - 1. Lacks at any time during the term of such office any qualification for the office prescribed by law, or
  - 2. Is convicted of a felony or a crime involving moral turpitude, or
  - 3. Fails to attend six consecutive regular meetings of the council, unless such absence is excused by the council, or
  - 4. Fails to attend twenty-five percent of the regular meetings during a 12-month period whether excused or not.
- (c) *Filling of vacancies; vacancy in council member's seat.*
  - 1. A vacancy on the council should be filled by majority vote of the remaining council members within 30 days after the vacancy. The person so appointed shall serve as a council member until the next regular or special election. At

such election, a council member shall be elected to serve for the remainder of the unexpired term of office.

2. If the council member s fails to fill such vacancy within 60 days after it occurs, a special election shall be called to fill the unexpired term.
  3. Any person appointed to fill such a vacancy shall possess all the qualifications required of a council member by law.
- (d) *Extraordinary vacancies.* In the event that all council members resign or are removed by death, disability, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 90 days after the occurrence of the vacancies. Such election shall be held in the same manner as the first election under this charter. In the event vacancies cannot be filled as provided in section 2.07(c) because of permanent vacancies which make it impossible to assemble a quorum, then in such case the governor shall appoint that number of council members necessary to constitute a quorum who shall hold office until the next regular or special election.
- (e) *Boards.* The council is empowered to appoint such advisory boards as it deems appropriate and regulatory board(s) as may be established by law.

(Ord. No. 6375-99, § 1, 1-21-99/3-9-99

Section 2.08. - Procedure.

- (a) *Meetings.* The council shall meet regularly at least once each month at such times and places as the council may prescribe by rule. Special meetings may be held on call of the mayor, the city manager, or any two council members and, when practical, upon no less than 24 hours' notice to each member and the public. All meetings shall be public, except as otherwise provided by law. The city manager and any council member shall have the power to cause any item to be placed on the next agenda.
- (b) *Rules and minutes.* The council shall determine its own rules and order of business. The city clerk shall keep minutes of the council proceedings.
- (c) *Voting.* Voting on ordinances and resolutions shall be by roll call and shall be recorded in the minutes. A majority of the council shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council.

Except as provided in section 2.07(c), section 3.02 and in the preceding sentence, no action shall be valid or binding unless adopted by the affirmative vote of the majority of all council members.

Section 2.09. - Ordinances and resolutions in general.

- (a) *Definitions.*

1. "*Ordinance*" means an official, legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.
  2. "*Resolution*" means an expression of the council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the business of the council.
- (b) *Form*. Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended action, section, subsection, or paragraph of a section or subsection.
- (c) *Procedure*. A proposed ordinance shall be read by title, or in full, on at least two separate days, at either regular or special meetings of the council, and shall, at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time, and place of the meeting, the title or titles of proposed ordinances and the place or places within the city where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (d) *Effective date*. Except as otherwise provided in this charter, every adopted ordinance shall become effective ten days after adoption or as otherwise specified therein.
- (e) *Emergency ordinances*. An ordinance may be passed as an emergency measure on the day of its introduction if it contains a declaration describing in clear and specific terms the facts and reasons constituting the emergency and receives the vote of at least four council members. An emergency ordinance shall remain effective as an ordinance for a period of 90 days and shall automatically expire at the end of such 90-day period unless during the time of such period the ordinance is submitted for adoption in the manner provided for non-emergency ordinances. Such ordinances may not levy taxes; grant, renew or extend a franchise; change election qualifications; set service or user charges for any municipal services; authorize the borrowing of money; enact or amend a land use plan; or rezone private real property. Emergency ordinances shall become effective upon passing or at such other date as shall be specified in the ordinance.

Section 2.10. - Authentication, recording and disposition of charter amendments, ordinances, and resolutions.

- (a) *Authentication*. The mayor and the city clerk shall authenticate by their signatures all ordinances and resolutions adopted by the council. In addition, when charter amendments have been approved at referendum.
- (b) *Recording*. The city clerk shall keep properly indexed records in which shall be recorded, in full, all ordinances and resolutions passed by the council. Ordinances shall periodically be codified. The city clerk shall also maintain the city charter in

current form. A copy of the charter and any amendments thereto shall be sent to the secretary of state.

- (c) *Availability of Public Records.* The council shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available to the people of the city for public inspection and available for purchase at a reasonable price to cover the cost of reproduction.

### ARTICLE III. - ADMINISTRATION

#### Section 3.01. - City manager.

The city manager shall serve as the chief administrative officer and chief executive officer of the city. The city manager shall be appointed on the basis of administrative qualifications, experience, and training. The city manager need not be a resident of the city or state at the time of appointment, but shall establish and maintain residency within the city within one year after the appointment. The city manager shall be responsible to the council for all city administrative affairs.

#### Section 3.02. - Appointment; removal; compensation.

- (a) *Appointment.* The council shall appoint a city manager by an affirmative vote of four council members. The city manager shall hold office at the pleasure of the council.
- (b) *Removal.* The council may remove the city manager by an affirmative vote of four council members or a majority of the council members at two separate meetings held at least two weeks apart. Upon request by the city manager, a public hearing will be held prior to a vote to remove the city manager.
- (c) *Compensation.* The compensation of the city manager shall be fixed by a majority of all the council members.
- (d) *Acting city manager.* By letter filed with the council, the city manager shall designate one or more assistant city managers to exercise the powers and perform the duties of city manager during the city manager's temporary absence or disability. This designation shall be limited to a period of 60 days. At the expiration of this period, the council shall appoint an interim or new city manager in accordance with the provisions of this charter.

#### Section 3.03. - Powers and duties of the city manager.

The city manager shall:

- (a) Appoint, promote, and suspend, demote, or remove any city employees or appointive administrative officers under the city manager's jurisdiction, except as may be otherwise provided by law. Such appointment, promotion, suspension, demotion, or removal shall be in compliance with the civil service law and other applicable rules and regulations.
- (b) Establish or discontinue any city department, division or board in the administrative affairs of the city, subject to council approval.

- (c) Attend council meetings and have the right to take part in discussion, but not to vote.
- (d) See to the faithful execution of all laws, provisions of this charter, and acts of the council subject to enforcement by the city manager or officers subject to the city manager's supervision.
- (e) Prepare and submit to the council in the form provided by ordinance, the annual budget, a capital improvement budget, and a projected capital improvement program for a minimum five-year period.
- (f) Submit to the council at the first regular meeting in September-November of each year and make available to the public a comprehensive report on the financial condition and administrative activities of the city to include the status of the annual goals and priorities.
- (g) Make such other reports as the council may require concerning the operations of city departments, offices and agencies subject to the city manager's supervision.
- (h) Keep the council fully advised as to the financial condition and future needs of the city and make recommendations to the council concerning the affairs of the city.
- (i) Sign contracts on behalf of the city pursuant to the provisions of appropriations ordinances.
- (j) Develop and keep current an administrative code which sets forth the organizational and operational procedures of the city government.
- (k) Provide administrative assistance to the council in connection with their official duties, and perform such other duties as are specified in this charter or may be required by the council.
- (l) Act as purchasing agent for the city.

(Ord. No. 6375-99, § 2, 1-21-99/3-9-99)

#### Section 3.04 - City clerk.

The city manager shall appoint a city clerk, which appointment must be confirmed by the council prior to becoming effective. The city clerk or the designee of the city clerk shall:

- (a) Be custodian of all records and the official seal of the city;
- (b) Attest all documents requiring attestation and agreements to which the city is a party;
- (c) Arrange for and supervise all city elections;
- (d) Attend all meetings of the council and keep minutes of its proceedings;
- (e) Give notice of council meetings to its members and the public;

(f) Perform such other duties as directed or required by law.  
Section 3.05. - Personnel system.

Appointments and promotions of city officials and employees, except those specifically exempted by ordinance, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence as provided by law.

#### ARTICLE IV. - CITY ATTORNEY; LEGAL DEPARTMENT<sup>[2]</sup>

Footnotes:

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Code reference— Officers and employees generally, § 2.261 et seq.

Section 4.01. - City attorney, legal department.

There shall be a legal department, headed by the city attorney, operating under the authority of and responsible to the council. The legal department shall consist of the city attorney, assistant city attorneys and such other staff as the council may direct.

Section 4.02. - City attorney appointment, removal, and compensation, qualifications and duties.

- (a) *Appointment.* The city attorney shall be appointed by the affirmative vote of four council members and may be removed by a majority of the members of the council. Upon request by the city attorney a public hearing will be held prior to a vote to remove the city attorney. The city attorney shall be a member in good standing of The Florida Bar.
- (b) *Duties.* The city attorney shall be the legal advisor to the council, the city manager and all city departments, offices and agencies. When required by the city council, the city attorney shall prosecute or defend, on behalf of the city, all complaints, suits and controversies in which the city is a party; and shall prepare or review and approve as to form and legal sufficiency all contracts, bonds, and other instruments to which the city is a party. The city attorney shall perform such other duties as may be directed by law or the city council.
- (c) *Absence.* By letter, filed with the council, the city attorney shall designate one or more assistant city attorneys to perform the duties of city attorney during a temporary absence or disability. This designation shall be limited to a period of 60 days. At the expiration of this time, the council shall appoint an interim or new city attorney in accordance with the provisions of this charter.

(Ord. No. 6375-99, § 3, 1-21-99/3-9-99)

Section 4.03 - Assistant city attorneys; special counsel.

- (a) *Assistants.* The city attorney shall appoint as many assistant city attorneys as authorized by the city council.
- (b) *Special Counsel.* The council may employ special counsel, outside of the legal department, who shall conduct such investigations and perform such services as the council may direct and who shall report directly to the council.

Section 4.04 - Compensation.

The council shall determine the compensation to be paid to the city attorney and special counsel. Compensation for the assistant city attorneys shall be established by the city attorney and approved by the council.

ARTICLE V. - RESERVED

ARTICLE VI. - INITIATIVE; REFERENDUM; RECALL

Section 6.01. - Initiative.

The voters of the city shall have power to propose ordinances to the council, and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such powers shall 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.

Section 6.02. - Referendum.

The voters of the city shall have power to require a reconsideration by the council of any adopted ordinance and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program, any emergency ordinance, or ordinance relating to appropriation of money, levy of taxes, or appointment or salaries of city officers or employees.

Section 6.03. - Recall.

The voters of the city shall have the power to recall or remove from office any elected official or officials of the city, for the reasons and in the manner set forth in the General Laws of the State of Florida.

Section 6.04. - Commencement of proceedings.

Any five voters may commence initiative or referendum proceedings by filing with the city clerk or other official designated by the council an affidavit 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, specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the clerk or other official designated by the council shall at the committee's request issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

Section 6.05. - Petitions.

- (a) *Number of signatures.* Initiative or referendum petitions must be signed by voters of the city equal in number to at least ten percent of the total number of voters registered to vote in the last regular city election.
- (b) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of the circulator.* Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating: That the circulator personally circulated the paper; the number of signatures thereon; that all the signatures were affixed in circulator's presence; that the circulator believes them to be the 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 proposed or sought to be reconsidered.
- (d) *Time for filing referendum petitions.* Completed referendum petitions must be filed within 90 days after the effective date of the ordinance sought to be reconsidered.

Section 6.06. - Procedure to filing.

- (a) *Certificate of city clerk; amendment.* Within 20 days after the initiative or referendum petition is filed, the city clerk or other official designated by the council shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is insufficient and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in section 6.05 hereof. 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 with the city clerk or other official designated by the council within two working days after receiving the copy of the city clerk's certificate and files a supplementary petition within ten days after receiving the copy of such certificate. The supplementary petition shall comply with the requirements of subsections (b) and (c) of section 6.05 hereof and within five days after it is filed the city clerk or other official designated by the council shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner's committee by registered mail as in the case of an original petition. If a petition or amended petition is certified insufficient, or if a petition or amended petition is certified insufficient and the petitioner's committee does not elect to amend or request council review under subsection (b) of this section within the time required, the city clerk or other official designated by the council shall promptly present the certificate to the council and the certificate shall then be a final determination as to the sufficiency of the petition.

- (b) *Council review.* If a petition has been certified insufficient and the petitioner's committee does not file a notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two working days after receiving the copy of such certificate, file a request that it be reviewed by the council. The council shall within 30 days review and approve or disapprove it, and the council's determination shall then be a final determination as to the sufficiency of the petition.

Section 6.07. - Referendum petitions; suspension of effect of ordinance.

When a referendum petition is filed with the city clerk or other official designated by the council, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a). There is a final determination of insufficiency of the petition, or
- (b). The petitioners' committee withdraws the petition, or
- (c). The council repeals the ordinance, or
- (d). Tabulation of the ballots cast by the voters of the city on the ordinance has been certified and repeal of the ordinance has failed.

Section 6.08. - Action on petitions.

- (a) *Action by council.* When an initiative or referendum petition has been determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article II or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the city.
- (b) *Submission to voters.* The vote of the city on a proposed or referred ordinance shall be held not less than 90 days and not later than 150 days from the date that the petition was determined sufficient. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the council a request for withdrawal signed by at least four members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 6.09. - Results of election.

- (a) *Initiative*. If a majority of the voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as an ordinance of the same kind adopted by the council except that it may not be repealed until after the next regular city election. 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.
- (b) *Referendum*. If a majority of the voters voting on a referred ordinance vote against the referred ordinance, it shall be considered repealed upon certification of the election results and may not be reenacted in substance until after the next regular city election.

(Ord. No. 6375-99, § 4, 1-21-99/3-9-99)

## ARTICLE VII. - GENERAL PROVISIONS

### Section 7.01. - Charter amendment.

- (a) *Initiation by ordinance*. In addition to charter amendments otherwise authorized by law, the council may, by ordinance, propose amendments to any part or all of this charter, except Article I, section 1.02, prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote at the next general election held within the city or at a special election called for such purpose.
- (b) *Initiation by petition*.
  - 1. The voters of the city may propose amendments to this Charter, except Article I, section 1.02, prescribing boundaries, in the manner set forth in Article VI, section 6.05(a)—(c).
  - 2. Upon certification of the sufficiency of the petition by the city clerk, the council shall place the proposed amendment to a vote of the voters at the next general or special election held not less than 90 days nor more than 150 days after certification.

### Section 7.02. - Charter review advisory committee.

~~Commencing in January 2029, The council shall appoint a charter review advisory committee in January, 1994, and at least every five-eight years thereafter, provided the appointments are made in January of a year preceding a city election, the Council shall appoint a Charter Review Advisory Committee.~~ The charter review advisory committee shall be composed of not less than ten members. It shall review the existing charter and make recommendations to the council for revisions thereto.

## ARTICLE VIII. - NOMINATIONS AND ELECTIONS

### Section 8.01. - Qualified voters.

Any person who is a resident of the city who has qualified as a voter of Florida, and Pinellas County, and who registers in the procedural manner prescribed by law, shall be a qualified voter of the city.

Section 8.02. - Nonpartisan elections.

All nominations and elections for council shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition, ballot, or political advertisement under the control of the candidate.

(Ord. No. 6375-99, § 5, 1-21-99/3-9-99)

Section 8.03. - Form of ballots.

The council shall by ordinance prescribe the form of the ballot and the method conducting all elections of the city.

- (a) *Council ballots.* Candidates for seats on the council shall be grouped according to the seat number for which they are candidates. Within each group, names shall be placed on the ballot alphabetically. No candidate may seek election to more than one seat in any election.
- (b) *Charter amendment.* A charter amendment to be voted on by the voters of the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the word "yes" and also the word "no" with a location thereafter to indicate the voter's choice.

Section 8.04. - Nominations.

The names of candidates for council shall be placed upon the ballot by the filing of a written notice of candidacy with the city clerk at such time and in such manner as may be prescribed by ordinance.

Where only one candidate qualifies for nomination to a seat on the council, then no general election shall be held with respect to the seat and the candidate shall be declared elected to the seat.

(Ord. No. 7235-03, § 2, 12-18-03/3-9-04)

Section 8.05. - Elections.

- (a) *Council positions.* All members of the city council shall be elected at large. The candidate receiving the largest number of votes among the candidates for that seat shall be elected.

- (b) *Regular elections.* Regular city elections shall be held on the second Tuesday in March of each year in which a council term expires.
- (c) *Special elections.* Special municipal elections may be called by the council at any time for such purposes as are authorized by law.
- (d) The Pinellas County Canvassing Board shall serve as the City of Clearwater's canvassing board, unless otherwise provided by ordinance.

(Ord. No. 7904-07, § 1, 11-15-07/1-29-08; Ord. No. 7991-08, § 1, 8-7-08/11-4-08)

Section 8.06. - Candidate vacancy.

If the death, withdrawal or removal from the ballot of a candidate occurs after the end of the qualifying period and leaves fewer than two candidates for an office, then the qualifying period shall be extended to the latest date on which a name can be added to the ballot. If a name cannot be added to the ballot, the remaining candidate shall be declared elected.

ARTICLE IX. - FISCAL MANAGEMENT PROCEDURE

The city's fiscal management procedure shall include provisions relating to the operating budget, capital budget, and capital program, and provide for hearings on the budget, capital budget, and capital program and the amendment of the budget following adoption.

(Ord. No. 7904507, § 1, 11-15-07/1-29-08)

ARTICLE X. - TRANSITION SCHEDULE

Section 10.01. - Continuation of former charter provisions.

All provisions of Chapter 9710, Special Acts of 1923, Florida Legislature, as amended by special law or otherwise, which are not embraced herein and which are not inconsistent with this charter shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

Section 10.02. - Ordinances preserved.

All ordinances in effect upon the adoption of this charter to the extent not inconsistent herewith, shall remain in force until repealed or changed as provided herein.

Section 10.03. - Rights of officers and employees.

Except as is specifically provided herein, nothing in this charter shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption. City council members shall continue to hold their offices until their successors are elected.

Section 10.04. - Pending matters.

All rights, claims actions, orders, contracts and legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of the charter.

Section 10.05. - Schedule.

This charter shall be in full effect for all purposes on and after approval by a majority of the electors voting in a valid election to be called for such purpose, and upon being filed with the secretary of state.

Appendix A

That portion of city-owned land bounded on the north by the right-of-way of Drew Street, on the east by the right-of-way of Osceola Avenue, on the south of the right-of-way of Pierce Street, and on the west by the waters of Clearwater Harbor, lying below the 28 mean sea level elevation, together with the following described tract: Beginning at the northeast corner of section 16, township 29 south, range 15 east, Pinellas County, Florida, and run thence west along the north line of said section, 1320.0 feet; thence south along the west line of the east one-half of the northeast one-quarter of said section 16, 1526.16 feet to an intersection with an easterly projection of the centerline of Pierce Street; thence south  $89^{\circ}45'00''$  W along the centerline of Pierce Street, 418 feet to an iron stake set in a projection of the west line of Osceola Avenue as extended across Pierce Street; thence south 20 feet along this projection of the southwest corner of the intersection of Pierce Street and Osceola Avenue; thence south  $88^{\circ}18'42''$  W along the south line of Pierce Street, 375 feet to the point of beginning; thence continue south  $88^{\circ}18'42''$  W, 270.89 feet along said south line of Pierce Street to the east right-of-way line of Pierce Boulevard; thence south  $19^{\circ}24'39''$  east along aforesaid east right-of-way along a curve to the right, chord 157.24 feet, arc 157.41 feet, radius 980 feet; thence north  $88^{\circ}18'46''$  east, 120.42 feet; thence north  $0^{\circ}14'32''$  west, 50 feet; thence north  $88^{\circ}18'42''$ , 100 feet; thence north  $0^{\circ}14'32''$  west, 99.80 feet to the point of beginning less and except that portion of the above described tract designated for the Bandshell Site.

Appendix B

Beginning at the Northeast corner of Lot 1 of Rompon's & Baskin's Corrected Map of Causeway Business District, according to the plat thereof as recorded in Plat Book 57, Pages 1 and 2, Public Records of Pinellas County, Florida, for a POINT OF BEGINNING, said point being said Westerly right-of-way line of Osceola Avenue; run thence S  $01^{\circ}26'17''$  E, along said Westerly right-of-way line of Osceola Avenue, 224.38 feet, to the Northerly right-of-way line of Cleveland Street; thence N  $89^{\circ}58'26''$  W, along said Northerly right-of-way line of Cleveland Street, 403.55 feet; thence N  $00^{\circ}00'15''$  W, along a line West of the existing Harborview Center Building, 217.30 feet; thence along a line Northerly of said Harborview Center Building the following two courses, S  $89^{\circ}58'26''$  E, 187.20 feet; thence N  $88^{\circ}07'14''$  E, 210.85 feet to the POINT OF BEGINNING.