

Subpart A - CHARTER

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.

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 council members, ~~including the mayor.~~ The members will occupy seats numbered one through five, 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 except as otherwise provided herein. All powers of the city shall be vested in the city council except those powers specifically given to the mayor or reserved to the electors of the city in this charter.

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- (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:
 - 4. ~~Each October at a public meeting, present a report on the evaluation of the performance of the city manager and city attorney.~~
 - 21. 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.
 - 32. Provide for an annual or more frequent independent audit of all city accounts by a firm of certified public accountants, ~~and 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.
 - 43. Regulate comprehensive planning, zoning and land development as provided by law.
- (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. No money may be disbursed from the City treasury except pursuant to appropriations made by the city council.

- (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 no real property may be given away or donated without prior approval at referendum. Following a public hearing, the City-city Council-council may approve the donation or sale for less than fair market value of city-owned property of not more than one-half acre 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.
 - (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.

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 mayor 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~~ three council members and ~~the mayor~~ elected ~~one year~~ in 2020, 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~~ but may serve as 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.

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~~ Chair, vice-chair, functions, and powers.

At the first council meeting each April, the council shall elect one of its members as chair and one member as vice-chair. ~~The mayor-chair~~ 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-chair~~ may execute legal instruments on behalf of the city or otherwise as required by law. This authorization does not confer upon the ~~mayor-chair~~ 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.* Except as otherwise provided herein, ~~Neither~~ 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~~ mayor, or any of the ~~city manager's~~ mayor's subordinates, is empowered to appoint.

(b) *Dealing through city manager* mayor. 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, ordinances and resolutions.

(c) *Holding other office.* No present or former council member shall hold any compensated appointive city office or employment until one year 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 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 required by law to be appointed by the legislative body.

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, Chair, 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 Mayor, Chair 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) *Submission of ordinances to mayor.*
All ordinances approved by Council shall be submitted to the mayor before becoming law; if he approves the ordinance he shall sign it, if not he shall return it with his objections to the council and such objection shall be entered into the minutes. The council shall then reconsider the ordinance at its next regular meeting at which there is a quorum. If after reconsideration it passes by majority +1 vote of all council members it shall become law. If any ordinance shall not be returned to the council by 5 PM on the sixth day after Council has adopted the ordinance shall it shall become effective without signature.
- (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-chair or vice chair~~ 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.