



AGENDA
CITY OF LAKE WORTH BEACH
CITY COMMISSION WORK SESSION - BALLOT ISSUES & VACATION
RENTALS
CITY HALL COMMISSION CHAMBER
THURSDAY, NOVEMBER 19, 2020 - 6:00 PM

ROLL CALL:

PLEDGE OF ALLEGIANCE: led by Commissioner Herman Robinson

UPDATES / FUTURE ACTION / DIRECTION

- A. [Discussion regarding Short Term and Vacation Rentals](#)
- B. [Ballot Questions Discussion](#)

ADJOURNMENT:

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

EXECUTIVE BRIEF WORK SESSION

AGENDA DATE: November 19, 2020

DEPARTMENT: Administration

TITLE:

Discussion regarding Short Term and Vacation Rentals

SUMMARY:

The Discussion involves resolving the state legislative overreach which preempted local control of Short Term and Vacation Rentals. Additionally, the discussion will cover what other jurisdictions have developed as best practices regarding types of regulations and rules that can be implemented.

BACKGROUND AND JUSTIFICATION:

The City currently defines Short Term rental as less than 60 days; anything shorter than that is not permitted. Enforcement of this provision was placed in abeyance as the City, along with other members of the Florida League of Cities, sought reasonable relief and control back from the Legislature. The City can proceed with the enforcement of the less than 60 day prohibition which will most likely draw a legal challenge.

The State's preemption set fourth in section 509.032, Florida Statutes prohibits local governments from regulating the rental duration or rental frequency of Vacation Rentals. If the City moves forward to allow them to legally exist must give up the 60 day minimum. Various changes will need to be made to the Code of Ordinances chapters by amending the Chapters below:

1. Chapter 2, Administration, Article VI Code Compliance and Article VII Abatement of Nuisances
2. Chapter 9, Buildings and Structural Regulations – 40-year recertification of commercial and multi-family structures and buildings
3. Chapter 11, Fire Protection and Prevention
4. Chapter 14, Business License
5. Chapter 18, Utilities (and the applicable rate resolutions)

DIRECTION:

N/A

ATTACHMENT(S):

Memo Outlining Potential Rules and Regulations
Map of existing Short Term/Vacation Rentals



Office of the City Manager
7 North Dixie Highway
Lake Worth Beach, FL 33460
561-586-1689

Memorandum

To: Honorable Mayor & City Commissioners

From: Michael Bornstein, City Manager

Subject: Air B&B, Short Term and Vacation Rental Potential Regulations

Date: November 13, 2020

Per the direction posed to City staff regarding Air B&Bs, Short Term and Vacation Rentals (“Vacation Rentals”), the City Attorney’s Office and the Community Sustainability Department collaborated to identify potential regulations the City could impose in order to reasonably allow and regulate Vacation Rentals within the City of Lake Worth Beach. The below list of potential regulations is not prohibited under the current statutory scheme for Vacation Rentals. However, please note, if the City modifies its existing Code of Ordinances to allow for Vacation Rentals (which are currently prohibited city-wide), Vacation Rentals should be allowed city-wide due to the State’s preemption set forth in section 509.032, Florida Statutes. Further, once Vacation Rentals are allowed, the City is currently prohibited from regulating the rental duration or rental frequency of Vacation Rentals.


Potential Regulations:

1. Establish a registration process as part of the Business License application process for the property owner to establish compliance with all required criteria, which may include:
 - a. A completed and signed Vacation Rental Registration Form.
 - b. Payment of applicable fee (to be established by resolution and based on occupancy level).
 - c. A copy of the Vacation Rental’s current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation.
 - d. A copy of the Vacation Rental’s current and active certificate of registration with the Florida Department of Revenue.
 - e. Evidence of the Vacation Rental’s current and active account with the Palm Beach County Tax Collector and Palm Beach County.
 - f. Exterior site sketch showing all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off street parking.
 - g. Interior building sketch by floor showing the floor layout, identifying all bedrooms, other rooms, exits, hallways, stairways, as applicable.
 - h. Occupancy limits established based on sketch and posted within Vacation Rental.
 - i. Property owner to provide 24/7 contact information for property owner or manager in case of emergency to City, PBSO, PBCFR and all occupants.


2. Property could not be claimed as homestead (with exception for owner-occupied).
3. Except for owner-occupied Vacation Rentals, utilities could be assessed under the commercial rate schedules (coordination with Village of Palm Springs and Palm Beach County would be necessary on properties outside City limits).
4. Except for owner-occupied Vacation Rentals, use & occupancy inspections would be conducted to reflect commercial use and potentially increase to an annual inspection along with fire marshal inspection.
5. External signage would need to be consistent with current sign code; internal postings would be required for waste collection schedule, noise ordinance, emergency numbers, etc.
6. Create a specific calls-for-service standard for Vacation Rentals to more quickly declare them a Chronic Nuisance and commence the process to obtain compliance with all regulations.
7. Possibly equate the Vacation Rental use to a motel, hotel or extended stay lodging and each Vacation Rental would have to meet the performance criteria of such uses as outlined in the Land Development Regulations.
8. Parking requirements would need to be established, which could be that of a single family residence or transient lodging facility (depending on occupancy level).
9. Create potential fee schedule for violations and identify irreparable fine amount for operating a Vacation Rental without the appropriate licenses and certifications.
10. Except for owner-occupied Vacation Rentals, Vacation Rental structures (residences) would need to meet commercial fire code and accessibility requirements.
11. Except for owner-occupied Vacation Rentals, potentially treat structures (residences) being used commercially as formal changes in use & occupancy triggering Florida Building Code Requirements to bring the structures up to current code. This may involve, structural, electrical, mechanical and plumbing requirements as well as fire code.

In order to incorporate all of these recommendations, the City would need to amend the following Chapters of its Code of Ordinances:

1. Chapter 2, Administration, Article VI Code Compliance and Article VII Abatement of Nuisances
2. Chapter 9, Buildings and Structural Regulations – 40 year recertification of commercial and multi-family structures and buildings
3. Chapter 11, Fire Protection and Prevention
4. Chapter 14, Business License
5. Chapter 18, Utilities (and the applicable rate resolutions)

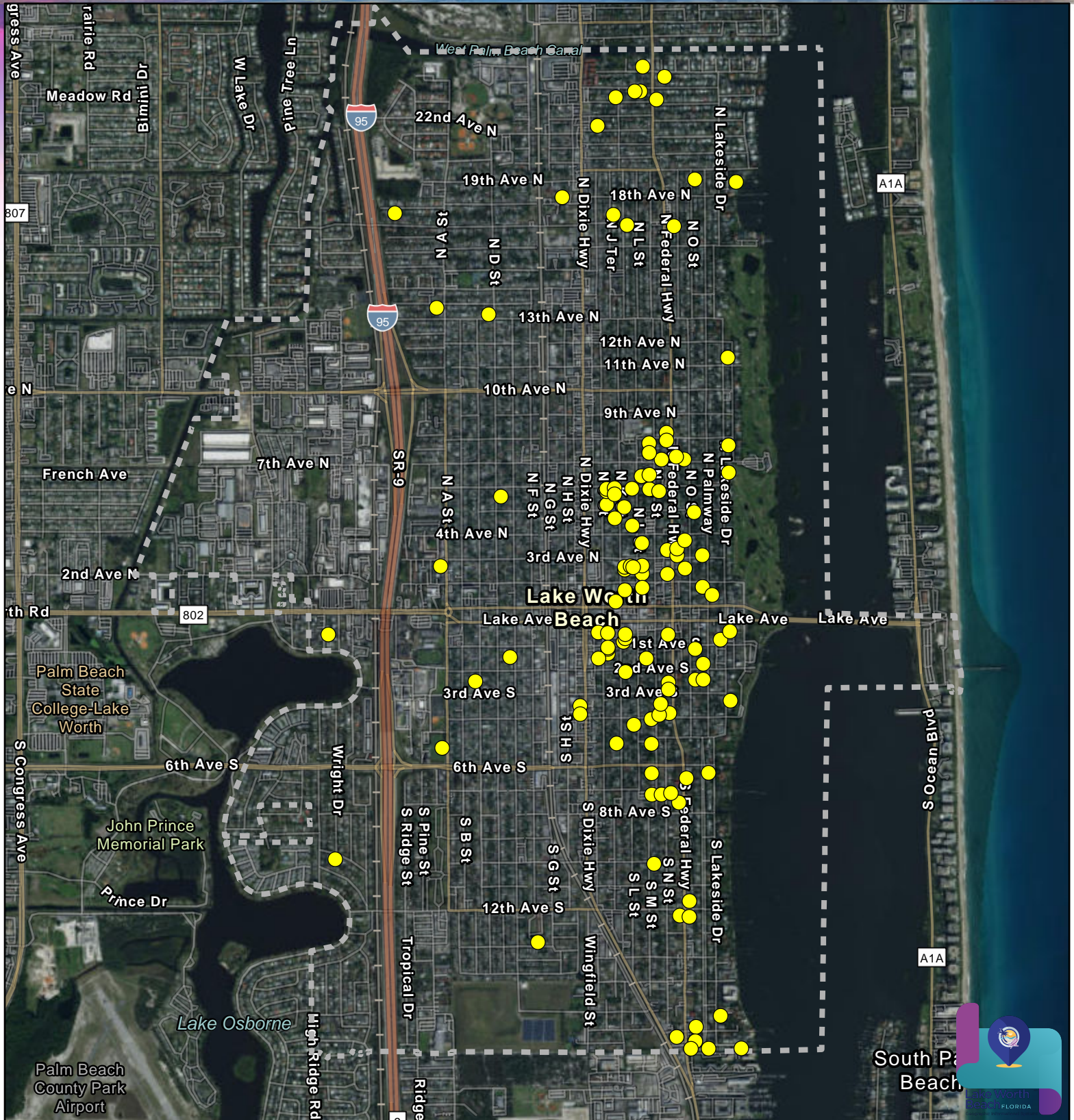
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6. Chapter 23, Land Development Regulations, Article 1 General Provisions, Article 3 Zoning Districts, Article 4 Development Standards and possibly Article 5 Supplemental Regulations.

The City's Resolution providing the official schedule of fees and charges also would need to be amended.



Short Term Rentals

Estimated Total: 115



Map Legend

- Short Term Rentals
- Municipal Boundary

0 0.130.25 0.5 Miles

EXECUTIVE BRIEF WORK SESSION

AGENDA DATE: November 19, 2020

DEPARTMENT: Administration

TITLE:

Ballot Questions Discussion

SUMMARY:

In response to the Commission's comments and discussions regarding the potential need to address issues and provide clarification in the City's Charter, the ballot questions below are provided. The following topics may be placed on the March 9, 2021 ballot or be for subsequent election cycles.

BACKGROUND AND JUSTIFICATION:

From time to time, the Commission places items for voters to consider and decide. There have been several such ballot questions in the past few years including the Gulf Stream Hotel property height limit increase (65' to 87') and the increase in the length of leases on the Beach properties to 30 years.

During public meetings, the Mayor and Commissioners have discussed and/or have heard several issues which would require a vote of the citizens in order to amend the City's Charter. These include, but are not limited to:

- Term Limits for Mayor and Commissioners
- Resign to run restrictions or filing to run again
- Declaration of Emergencies by Mayor and City Manager
- Adding a timeframe for when a Commission vacancy shall be filled
- Residency requirement for Utility Director

Any ballot question language that would go on the March 9, 2021 ballot must be finalized and approved in Ordinance form.

DIRECTION:

N/A

ATTACHMENT(S):

City Charter

PART I - SUBPART A

CHARTER

Footnotes:

--- (1) ---

Editor's note— Ord. No. 86-1, § 1, enacted Jan. 20, 1986 and passed at referendum March 11, 1986, amended the charter in its entirety to read as set forth in this Subpart A. The absence of a history note in parenthesis following a particular charter section indicates that said section derives unamended from Ord. No. 86-1. The presence of a history note indicates subsequent amendment. The charter formerly set out in Subpart A consisted of §§ 1—18 and was derived from the following: Laws of Florida, Special Acts 1949, Ch. 25962; Special Acts 1951, Ch. 27672, §§ 1—5; Special Acts 1953, Ch. 29225, §§ 3, 4, 7, and Ch. 29226, § 3; Ch. 57-1497, § 1; Ch. 57-1498, § 1; Ch. 57-1499, § 1; Ch. 57-1501, § 1; Ch. 57-1502, § 1; Ch. 57-1503, § 1; Ch. 63-1514, §§ 1, 2; Ch. 63-1515, § 1, Ch. 63-1516, §§ 1, 2; Ch. 63-1517, §§ 1, 2; Ch. 67-1616, § 1; Ch. 69-1212, § 1; Ch. 69-1213, § 1; Ch. 69-1214, § 1; Ch. 69-1215, § 6; Ch. 70-773, § 1; Ord. No. 73-1, § 1, enacted Feb. 5, 1973; Ord. No. 74-2, enacted Mar. 18, 1974; Ord. No. 75-34, enacted Dec. 1, 1975; Ord. No. 77-7, §§ 1, 2, enacted May 2, 1977; Ord. No. 78-10, §§ 1, 2, enacted May 1, 1978; Ord. No. 80-9, §§ 1—8, enacted June 16, 1980; Ord. No. 81-17, §§ 1, 2, enacted Sept. 8, 1981; Ord. No. 83-31, §§ 1—3, enacted Jan. 3, 1984; Ord. No. 84-20, §§ 1, 2, enacted Aug. 20, 1984; and Ord. No. 84-21, § 1, enacted Sept. 17, 1984.

As regards provisions of the former charter, the interested user is directed to Article VI of the present charter and to Subpart D, which contains such provisions for reference purposes.

ARTICLE I. - CREATION, POWER AND FORM OF GOVERNMENT

Sec. 1. - City created.

- (a) The municipality hereby created shall be known as the "City of Lake Worth Beach."
- (b) All references to "City of Lake Worth" in the Florida law, federal law, case law, court orders, regulations, public records, official county seal and logo, tax and special assessment rolls, and any and all other documents, papers, letters, maps, plats, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, shall deemed to be references to "City of Lake Worth Beach". This ordinance, and this section, shall apply to all such references without regard to whether they precede, are contemporary with, or occur subsequent to the effective date of this section.
- (c) The City remains the same municipal corporation of the State of Florida as previously for all purposes and retains all rights, privileges, immunities, obligations and claims thereof unaffected by the change of name.

(Ord. No. 2018-18, § 7, 12-13-18, passed at referendum 3-12-19)

Sec. 2. - Extraterritorial powers.

- (a) Police power over property outside boundary. To exercise full police powers over the beach and recreational areas of the city and the waters of the Atlantic Ocean adjacent thereto for a distance of one thousand (1,000) feet eastward from the municipal boundary into said ocean, and over all structures thereon and therein owned by the city, and which lie outside the municipal boundaries of the city, and to make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of enforcing such power, and to provide and impose penalties for the violations of such ordinances, rules

and regulations by fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days or both. The power and jurisdiction provided herein shall not limit or in any manner interfere with the powers or jurisdiction of the Town of Palm Beach, County of Palm Beach, or any other governmental unit or authority, and the powers and jurisdiction granted herein shall be concurrent with such other governmental units and shall not be exclusive.

- (b) All other extraterritorial powers conferred upon the City of Lake Worth by general or special act prior to the adoption of this charter are hereby retained and shall remain in full force and effect until repealed, as provided by law.

Sec. 3. - Construction.

The powers of the city shall be construed liberally in favor of the city, limited only by the Constitution, general law and specific limitations contained herein. Future special acts pertaining to the jurisdiction and exercise of powers by this city shall be considered amendments to this charter and, pursuant to the provisions adopted for incorporation of other charter amendments, shall be incorporated as official amendments to the charter.

Sec. 4. - Form of government.

- (a) The form of government of the City of Lake Worth shall be known as the "commission-manager plan." The city commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt resolutions and policies and appoint a chief administrative officer to be known as the "city manager," and to exercise all other powers hereinafter provided, or conferred by law.
- (b) Elective and appointive officers.
 - (1) The elective officers under this charter shall be the mayor and the members of the city commission.
 - (2) The appointive officers shall be the city manager, city attorney, internal auditor, city clerk, police chief, fire chief, and such other officers as may be provided for by ordinance. Any of the above officers which are, or may become, under civil service shall be subject to civil service regulations. All of the appointive officers under the charter, except the city manager, city attorney, and internal auditor shall be appointed by the city manager and all appointive officers shall hold office subject to provisions of law.

(Ord. No. 96-34, § 1, 12-5-96)

ARTICLE II. - TERRITORIAL BOUNDARIES; ELECTION PRECINCTS

Sec. 1. - Boundaries of the city.

The boundaries of the City of Lake Worth, a municipal corporation in Palm Beach County, Florida, shall be as follows:

BEGINNING AT THE SOUTHEASTERLY CORNER OF THE NORTHEAST ONE—QUARTER (NE-1/4) OF SECTION 33, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; RUN THENCE WESTERLY ALONG THE EAST AND WEST CENTERLINE OF SAID SECTION 33 TO THE SOUTHWEST CORNER OF THE NORTHWEST ONE—QUARTER (NW-1/4) OF SAID SECTION 33; THENCE WESTERLY ALONG THE EAST AND

WEST CENTERLINE OF SECTION 32, TOWNSHIP 44 SOUTH, RANGE 43 EAST, TO THE WESTERLY RIGHT OF WAY LINE OF HIGH RIDGE ROAD; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE TO THE SOUTHERLY RIGHT OF WAY LINE OF LAKE OSBORNE DRIVE; THENCE EASTERLY AND NORTHERLY ALONG THE SAID RIGHT OF WAY LINE OF LAKE OSBORNE DRIVE TO THE CENTERLINE OF 12TH AVENUE SOUTH; THENCE CONTINUE NORTHERLY AND NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE OF LAKE OSBORNE DRIVE TO THE CENTERLINE OF SNOWDEN DRIVE; THENCE WESTERLY AND NORTHWESTERLY ALONG THE SAID RIGHT OF WAY LINE OF LAKE OSBORNE DRIVE TO THE CENTERLINE OF COLLIER AVENUE; THENCE NORTHERLY, NORTHEASTERLY AND EASTERLY ALONG THE SAID RIGHT OF WAY OF LAKE OSBORNE DRIVE TO THE CENTERLINE OF WRIGHT DRIVE; THENCE NORTHEASTERLY, NORTHERLY, NORTHWESTERLY AND WESTERLY ALONG THE SAID RIGHT OF WAY OF LAKE OSBORNE DRIVE TO THE WESTERLY RIGHT OF WAY LINE OF DETROIT STREET; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE TO THE NORTHERLY LINE OF SECTION 29, TOWNSHIP 44 SOUTH, RANGE 43 EAST: THENCE NORTHERLY ALONG THE SOUTHERLY EXTENSION OF THE WESTERLY RIGHT OF WAY LINE OF DETROIT STREET AND ALONG SAID WESTERLY RIGHT OF WAY LINE TO THE SOUTHEAST CORNER OF LOT 22, BLOCK 2 OF BUFFALO HEIGHTS ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 8, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE WESTERLY ALONG THE SOUTH LINE OF LOTS 22 AND 39 TO THE SOUTHWEST CORNER OF SAID LOT 39, BLOCK 2 OF BUFFALO HEIGHTS, AND THE EAST RIGHT OF WAY LINE OF BUFFALO STREET: THENCE SOUTHERLY ALONG SAID EAST RIGHT OF WAY LINE OF BUFFALO STREET TO THE NORTH RIGHT OF WAY LINE OF LAKE WORTH ROAD; THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE TO THE WEST RIGHT OF WAY LINE OF BUFFALO STREET; THENCE NORTHERLY ALONG SAID WEST RIGHT OF WAY LINE TO THE SOUTH RIGHT OF WAY LINE OF 2nd AVENUE NORTH; THENCE WESTERLY ALONG SAID SOUTH RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF BOUTWELL ROAD; THENCE SOUTHERLY ALONG SAID EAST RIGHT OF WAY LINE TO THE NORTHWEST CORNER OF LOT 50, BLOCK 1 OF SAID BUFFALO HEIGHTS; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 50 TO THE NORTHEAST CORNER OF SAID LOT 50; THENCE SOUTHERLY ALONG THE EAST LINE OF LOTS 50, 49, 48 AND 47, OF SAID BLOCK 1 TO THE SOUTHEAST CORNER OF SAID LOT 47; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 47 TO A POINT BEING ON A LINE LYING 75.00 FEET EAST OF THE WEST LINE OF LOTS 46, 45, 44 AND 43, OF SAID BLOCK 1; THENCE SOUTHERLY ALONG SAID EAST LINE TO A POINT BEING ON THE SOUTH LINE OF SAID LOT 43; THENCE EASTERLY ALONG SAID SOUTH LINE TO THE SOUTHEAST CORNER OF SAID LOT 43; THENCE SOUTHERLY ALONG THE EAST LINE OF LOTS 42, 41, 40, 39, 38, 37 AND 36 OF SAID BLOCK 1 TO THE SOUTHEAST CORNER OF SAID LOT 36; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 36 TO THE NORTHEAST CORNER OF LOT 34 OF SAID BLOCK 1; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 34 TO THE NORTH RIGHT OF WAY LINE OF LAKE WORTH ROAD AS LAID OUT AND IN USE; THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE AND ALONG THE SOUTH LINE OF TRACT 116 OF PLAT BOOK 5, PAGE 29, TO THE EAST LINE OF TRACT 115 OF SAID PLAT; THENCE NORTHERLY ALONG SAID EAST LINE TO A LINE 4 FEET NORTH OF AND PARALLEL TO SAID NORTH RIGHT OF WAY; THENCE WESTERLY ALONG SAID PARALLEL TO A LINE BEING ALONG THE EAST LINE OF THE WEST 75 FEET OF SAID TRACT 115; THENCE NORTHERLY ALONG SAID LINE A DISTANCE OF APPROXIMATELY 134 FEET TO A LINE BEING ALONG A LINE PARALLEL WITH AND PERPENDICULAR TO THE NORTH LINE OF STATE ROAD 174, NOW ASSUMED TO BE STATE ROAD 802, LAKE WORTH ROAD; THENCE WESTERLY ALONG SAID LINE TO THE WEST LINE OF SAID TRACT 115; THENCE NORTHERLY ALONG THE WEST LINE OF TRACT 115 TO THE SOUTH RIGHT OF WAY LINE OF 2nd AVENUE NORTH AS LAID OUT AND IN USE; THENCE WESTERLY

ALONG SAID SOUTH RIGHT OF WAY LINE TO THE EAST LINE OF THE WEST HALF OF TRACT 111 OF SAID PLAT; THENCE SOUTHERLY ALONG SAID LINE TO THE NORTH RIGHT—OF—WAY LINE OF LAKE WORTH ROAD AS LAID OUT AND IN USE; THENCE WESTERLY ALONG SAID NORTH LINE TO THE WEST LINE OF THE EAST HALF OF TRACT 110 OF SAID PLAT; THENCE NORTHERLY ALONG SAID WEST LINE TO THE SOUTH RIGHT OF WAY LINE OF SAID 2nd AVENUE NORTH; THENCE WESTERLY ALONG SAID SOUTH RIGHT OF WAY LINE TO THE EASTERLY LINE OF THE 200—FEET—WIDE CANAL SHOWN ON SAID PLAT (NOW KNOWN AS THE KELLER CANAL AND AS THE LAKE WORTH DRAINAGE DISTRICT CANAL E-4) AND THE WESTERLY LINE OF TRACT 109 OF SAID PLAT; THENCE NORTHERLY ALONG THE WESTERLY LINES OF TRACTS 109, 97, 81, 66, 54 AND 36 TO THE NORTH LINE OF THE SOUTH 200 FEET OF SAID TRACT 36; THENCE EASTERLY ALONG THE NORTH LINE OF THE SOUTH 200 FEET OF TRACTS 36, 35 AND 34 TO THE EAST LINE OF THE WEST 55 FEET OF SAID TRACT 34; THENCE NORTHERLY ALONG SAID EAST LINE TO THE NORTH LINE OF THE SOUTH 327.5 FEET OF SAID TRACT 34; THENCE EASTERLY ALONG SAID NORTHERLY LINE TO THE EAST LINE OF THE WEST 65 FEET OF SAID TRACT 34; THENCE NORTHERLY ALONG SAID EAST LINE TO THE NORTH LINE OF THE SOUTH 427.5 FEET OF SAID TRACT 34; THENCE WESTERLY ALONG SAID NORTH LINE TO THE WEST LINE OF THE EAST 5 FEET OF BYRO MEDIA LANE AS ABANDONED IN DEED BOOK 582, PAGE 2 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTHERLY ALONG SAID WEST LINE TO THE SOUTH RIGHT OF WAY LINE OF 10th AVENUE NORTH, AS LAID OUT AND IN USE; THENCE EASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE TO THE EAST RIGHT OF WAY LINE OF BOUTWELL ROAD; THENCE SOUTHERLY ALONG SAID EAST RIGHT OF WAY LINE TO THE NORTH LINE OF THE SOUTH 402 FEET OF TRACT 33 OF SAID PLAT; THENCE EASTERLY ALONG SAID NORTH LINE, PARALLEL TO THE NORTH LINE OF SAID TRACT 33, TO THE WEST LINE OF THE EAST 155 FEET OF SAID TRACT 33; THENCE NORTHERLY ALONG SAID WEST LINE TO THE SOUTH LINE OF NORTH 180 FEET OF SAID TRACT 33; THENCE WESTERLY ALONG SAID SOUTH LINE TO THE EAST RIGHT OF WAY LINE OF BOUTWELL ROAD; THENCE NORTHERLY ALONG SAID EAST RIGHT OF WAY LINE AND THE NORTHERLY EXTENSION OF SAID EAST RIGHT OF WAY LINE TO THE NORTH RIGHT OF WAY LINE OF SAID 10th AVENUE NORTH; THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY LINE TO THE EAST LINE OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 25108, PAGE 878; THENCE NORTHERLY ALONG SAID EAST LINE TO THE NORTH LINE OF SAID LANDS; THENCE WESTERLY ALONG SAID NORTH LINE TO THE EASTERLY LINE OF THE 200 FOOT WIDE CANAL SHOWN ON SAID PLAT (NOW KNOWN AS THE KELLER CANAL AND AS THE LAKE WORTH DRAINAGE DISTRICT CANAL E-4) AND THE WESTERLY LINE OF TRACT 26 OF SAID PLAT; THENCE NORTHERLY ALONG THE WESTERLY LINES OF TRACTS 26 AND 4 TO THE SOUTHERLY BANK LINE OF THE KELLER CUT-OFF CANAL; THENCE NORTHEASTERLY ALONG SAID SOUTHERLY LINE TO THE EAST RIGHT OF WAY LINE OF BOUTWELL ROAD; THENCE SOUTHERLY ALONG SAID EAST RIGHT OF WAY LINE TO A LINE; THENCE EASTERLY ALONG SAID LINE, MAKING AN ANGLE OF 104°56'55" FROM SOUTH TO EAST, TO THE EAST LINE OF THE WEST 206 FEET OF SAID TRACT 3, THENCE NORTHERLY ALONG SAID EAST LINE TO THE SOUTHERLY BANK LINE OF THE KELLER CUT-OFF CANAL; THENCE EASTERLY ALONG SAID CANAL BANK TO THE NORTH LINE OF TRACT 2 OF SAID PLAT; THENCE EASTERLY ALONG SAID LINE TO THE NORTHEAST CORNER OF SAID TRACT; THENCE NORTHERLY, ALONG THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT 2 TO THE SOUTHERLY LINE OF SECTION 17, TOWNSHIP 44 SOUTH, RANGE 43 EAST; THENCE EASTERLY ALONG THE SAID SOUTHERLY LINE OF SECTION 17 TO THE SOUTHEASTERLY CORNER THEREOF; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID SECTION 17 TO THE CENTERLINE OF LAKE WORTH DRAINAGE DISTRICT E-4 CANAL; THENCE NORTHERLY ALONG THE SAID CENTERLINE TO A POINT OF INTERSECTION WITH THE EASTERLY EXTENSION OF THE CENTERLINE OF

BETA COURT, ACCORDING TO PLAT NO. 3 OF LAKE CLARKE ISLE, AS RECORDED IN PLAT BOOK 25, PAGE 106, AND PLAT OF SOUTH LAKE SHORES, AS RECORDED IN PLAT BOOK 25, PAGE 213, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE EASTERLY ALONG THE SAID CENTERLINE EXTENSION TO THE EASTERLY RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILWAY, SAID EASTERLY RIGHT-OF-WAY LINE ALSO BEING THE WESTERLY LIMITED ACCESS RIGHT-OF-WAY LINE OF STATE ROAD NO. 9 (I-95); THENCE NORTHERLY ALONG THE SAID EASTERLY RIGHT OF WAY LINE, TO THE EXISTING CENTERLINE OF THE WEST PALM BEACH CANAL RIGHT-OF-WAY; THENCE EASTERLY ALONG SAID EXISTING CENTERLINE TO THE MIDDLE OF THE CHANNEL OF LAKE WORTH; THENCE SOUTHERLY ALONG THE MIDDLE OF THE CHANNEL OF LAKE WORTH TO THE NORTHERLY EXISTING RIGHT-OF-WAY LINE OF LAKE AVENUE (S.R.802) AS SAID RIGHT-OF-WAY IS SHOWN ON THE STATE ROAD DEPARTMENT RIGHT OF WAY MAP, SECTION NO. 93180-2504; THENCE EASTERLY ALONG THE SAID RIGHT-OF-WAY LINE AND ITS EASTERLY EXTENSION TO A POINT 10.00 FEET WESTERLY OF THE WATER'S EDGE OF THE ATLANTIC OCEAN AT MEAN HIGH TIDE; THENCE SOUTHERLY FOLLOWING A LINE 10.00 FEET WESTERLY OF THE WATERS OF THE ATLANTIC OCEAN AT MEAN HIGH TIDE TO THE NORTH LINE OF THE SOUTH 1198.77 FEET OF GOVERNMENT LOT 1 OF SECTION 26, TOWNSHIP 44 SOUTH, RANGE 43 EAST; THENCE WESTERLY ALONG THE SAID NORTH LINE OF THE SOUTH 1198.77 FEET OF GOVERNMENT LOT 1 TO THE EASTERLY BOUNDARY OF THAT CERTAIN PARCEL DESCRIBED IN DEED BOOK 631, PAGE 22, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTHERLY ALONG SAID EASTERLY BOUNDARY TO THE NORTH LINE OF THE SOUTH 1298.77 FEET OF SAID GOVERNMENT LOT 1; THENCE WESTERLY ALONG THE SAID NORTH LINE OF THE SOUTH 1298.77 FEET OF GOVERNMENT LOT 1 AND ITS WESTERLY EXTENSION TO THE MIDDLE OF THE CHANNEL OF LAKE WORTH; THENCE SOUTHERLY ALONG THE MIDDLE OF THE CHANNEL OF LAKE WORTH TO THE SOUTHERLY LINE OF THE EAST AND WEST CENTERLINE OF SECTION 34, TOWNSHIP 44 SOUTH, RANGE 43 EAST; THENCE WESTERLY ALONG SAID CENTERLINE OF SECTION 34 TO THE POINT OF BEGINNING.

TOGETHER WITH: THOSE CERTAIN LANDS AS DESCRIBED IN OFFICIAL RECORDS BOOK 25986, PAGE 651 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND NOT INCLUDING THE FOLLOWING DESCRIBED PARCELS:

PARCEL 1:

ALL OF LOTS 1 AND 2, BLOCK 1, ACCORDING TO THE PLAT OF SUNSET PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE 65 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND REPLATTED AS LOTS 1 AND 2, HUB PROPERTIES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 24, PAGE 101, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH THAT PORTION OF SUNSET AVENUE LYING EASTERLY OF SAID LOTS 1 AND 2.

PARCEL 2:

TRACTS 2 AND 3, TOGETHER WITH CENTER STREET, ACCORDING TO THE SAID PLAT OF SUNSET PARK.

PARCEL 3:

ALL OF LOTS 46 THROUGH 50, BLOCK 2, BUFFALO HEIGHTS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 8 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 4:

THE SOUTH 83 FEET OF THE NORTH 478 FEET OF THE EAST 114 FEET OF TRACT 91, AS RECORDED IN PLAT BOOK 5, PAGE 79 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 5:

THE WEST 198 FEET OF TRACT 94, PLAT BOOK 5, PAGE 79, LESS THE NORTH 1/2 THEREOF.

ALSO LESS AND NOT INCLUDING THE RIGHT-OF-WAY OF BOUTWELL ROAD ACROSS 10th AVENUE NORTH, AND THE RIGHT-OF-WAY OF LAKE WORTH ROAD AS NOW LAID OUT AND IN USE; AS SET FORTH IN OFFICIAL RECORDS BOOK 338, PAGE 545 AND OFFICIAL RECORDS BOOK 418, PAGE 541.

TOGETHER WITH THE FOLLOWING CERTAIN RIGHTS-OF-WAY PER ORDINANCE 2007-50:

DETROIT STREET - FROM 2nd AVENUE NORTH TO LAKE OSBORNE DRIVE.

BUFFALO STREET - FROM 2nd AVENUE NORTH TO LAKE WORTH ROAD.

2nd AVENUE NORTH - FROM DETROIT STREET TO THE E-4 CANAL.

4th AVENUE NORTH - FROM BOUTWELL ROAD TO THE E-4 CANAL.

7th AVENUE NORTH - FROM BOUTWELL ROAD EAST FOR A DISTANCE APPROXIMATELY 708 FEET.

BOUTWELL ROAD - SOUTH FROM ITS NORTHERN TERMINUS TO 10th AVENUE NORTH.

10th AVENUE NORTH - FROM I-95 TO BOUTWELL ROAD.

BOUTWELL ROAD - FROM 10th AVENUE NORTH TO LAKE WORTH ROAD.

2nd AVENUE NORTH - FROM I-95 TO DETROIT STREET.

BARNETT DRIVE - FROM 7th AVENUE NORTH TO ITS NORTHERN TERMINUS.

23rd AVENUE SOUTH - FROM 7th AVENUE NORTH TO 4th AVENUE NORTH.

BARNETT LANE SOUTH - FROM 7th AVENUE NORTH TO ITS SOUTHERN TERMINUS,

ARAGON AVENUE - EAST FROM BARNETT DRIVE TO ITS EASTERN TERMINUS.

MADRID AVENUE - EAST FROM BARNETT DRIVE TO ITS EASTERN TERMINUS.

WORTH AVENUE - EAST FROM BARNETT DRIVE TO ITS EASTERN TERMINUS.

8th AVENUE NORTH - WEST FROM BARNETT DRIVE TO DETROIT STREET.

7th COURT NORTH - WEST FROM BARNETT DRIVE TO DETROIT STREET.

ALL OF CIRCLE DRIVE SOUTH OF 7th AVENUE NORTH.

INDUSTRIAL STREET - SOUTH FROM 7th AVENUE NORTH TO 4th AVENUE NORTH.

CORONA STREET - SOUTH FROM 7th AVENUE NORTH TO JOYCE AVENUE.

GREEN STREET - SOUTH FROM 7th AVENUE NORTH TO 5th AVENUE NORTH.

(Ord. No. 89-8, § 1, 5-15-89; Ord. No. 90-17, § 1, 5-21-90; Ord. No. 98-31, § 1, 9-15-98; Ord. No. 2000-16, 6-6-00; Ord. No. 2002-24, 9-3-02; Ord. No. 2004-37, 12-21-04; Ord. No. 2005-9, § 2, 4-5-05; Ord. No. 2005-52, 11-15-05; Ord. No. 2007-02, 2-6-07; Ord. No. 2007-03, 2-6-07; Ord. No. 2007-04, 2-6-07; Ord. No. 2007-05, 2-6-07; Ord. No. 2007-06, 2-6-07; Ord. No. 2007-07, 2-6-07; Ord. No. 2007-30, § 2, 8-7-07; Ord. No. 2007-50, § 2, 11-20-07; Ord. No. 2012-07, § 3(Exh. A), 1-7-12; Ord. No. 2014-28, § 3(Exh. A), 11-4-14; Ord. No. 2016-01, 1-19-16)

Sec. 2. - Election districts.

The City of Lake Worth is hereby divided into four (4) election districts, as follows:

District 1. All that territory lying west of Dixie Highway and south of Lake Avenue.

District 2. All that territory lying west of Dixie Highway and north of Lake Avenue.

District 3. All that territory lying east of Dixie Highway and north of Lake Avenue.

District 4. All that territory lying east of Dixie Highway and south of Lake Avenue.

Sec. 3. - City-owned property east of the A1A roadway.

City-owned property East of the A1A roadway shall not be declared surplus property, and shall not be sold, hypothecated, conveyed, or leased, except for a lease of less than 20 years, without the affirmative vote of a majority of the electors of the City of Lake Worth at a properly noticed and scheduled referendum.

(Ord. No. 2004-5, § 3, 1-6-04)

Editor's note— Ord. No. 2004-5, § 3, adopted Jan. 6, 2004, did not provide a specific location within the Charter in which to include its provisions. Hence, its inclusion as article II, section 3 was at the discretion of the editor.

Sec. 4. - Sale of parks, city-owned waterfront property, and city-owned downtown property only by referendum.

City-owned property west of A-1-A roadway to the Lake Worth Lagoon, city-owned property including parking lots within downtown Lake Worth, and public parks within the City of Lake Worth shall not be declared surplus property and shall not be sold, hypothecated, conveyed or leased, except for a lease of less than 20 years, without an affirmative vote of the qualified electors of the City of Lake Worth. When such matters are submitted to a referendum, the commission shall pass a resolution calling for a referendum election or shall place the matter on the next scheduled ballot, provided the next ballot date is less than one year. This amendment shall become effective immediately upon approval by the electors of the City of Lake Worth. Ordinance or parts of ordinances in conflict shall be repealed.

1. *Definitions.*

- a. *West of A-1-A Roadway* shall mean lands bounded on the east by State Road A-1-A, and on the west by the Lake Worth Lagoon estuary, including city-owned submerged coastal lands.
- b. *Downtown Lake Worth* shall mean land bounded on the north by Second Avenue North (south side), on the south by First Avenue South (north side), on the East by Lake Worth Lagoon, and on the west by Dixie Highway (east side).
- c. *Public parks* shall mean public land designated as PROS District and P District in the Lake Worth Comprehensive Plan, city-owned land designated for public purposes, and city-owned

land used by the public as parks.

2. *Changes or amendments.* Changes or amendments to this publicly-voted charter amendment must be approved by a majority of the qualified electors of the City of Lake Worth, voting at regular city, general or special elections.
3. *Interference in elective process.* The events described previously are considered matters of election and should be treated with the same respect. No officer, employee, board member, developer, realtor or citizen of the City of Lake Worth shall interfere in a coercive manner with this ordinance or the election process described above or advise any potential recipient of public land to interfere in a coercive manner with the election process described above without facing the legal consequences described in the Election Code of the State of Florida as recited in Chapter 104 of the Florida Statutes, sections 104.011 through 104.46.

(Ord. No. 2004-30, § 1, 9-21-04)

Editor's note— Ord. No. 2004-30, § 1, adopted September 21, 2004, and approved by voters March 8, 2005, did not provide a specific location within the Charter in which to include its provisions. Hence, its inclusion as article II, section 4 was at the discretion of the editor.

ARTICLE III. - LEGISLATIVE

Sec. 1. - City commission; powers and composition.

There shall be a city commission, with all legislative powers of the city vested therein, consisting of five (5) members who shall be electors of the city, and who shall be elected by the electors of the city-at-large. Each commissioner shall reside in one of the districts established, and only one commissioner may reside in each district, except for the mayor who shall reside within the city. Candidates of the commission shall reside in the district from which they seek to be elected. Members of the commission shall reside in the district from which they were elected.

Sec. 2. - Election and terms.

On the second Tuesday in March of each year a general election shall be held to elect members of the city commission. The election of members of the city commission, except the mayor, shall be by districts to be known as Districts 1, 2, 3 and 4. The commissioners from Districts 2 and 4 shall be elected to three-year terms commencing in March 2019 Commissioners from Districts 1 and 3 shall be elected to three-year terms commencing in March 2018. The mayor shall be elected to a three-year term commencing in March 2018. The mayor and each commissioner shall serve until a successor has been duly qualified, elected and the election results certified by resolution of the city commission, or upon appointment, by resolution of the city commission. Such resolution shall be considered at the special meeting called to canvass the ballots, and shall be the order of business next following the canvass of ballots. Such special meeting shall be held no later than forty-eight hours after election results are furnished in writing to the city clerk by the supervisor of elections. No meeting shall be called, or business conducted by the city commission, except for emergency matters, after the polls close, until such time as the results of such election are canvassed.

(Ord. No. 2007-11, § 2, 2-6-07; Ord. No. 2012-28, § 2, 8-7-12; Ord. No. 2015-08, § 2, 8-18-15; Ord. No. 2017-01, § 2, 1-10-17, passed at referendum 3-14-17)

Sec. 3. - Mayor, vice mayor, and vice mayor pro tem.

The mayor shall be elected as provided in this article, and the city commission shall elect from among its members a vice mayor, and a vice mayor pro tem to serve at the pleasure of the city commission. Election of the vice mayor and vice mayor pro tem shall be done annually at the first regular city commission meeting after the general election. The mayor shall preside at meetings of the commission, shall be recognized as head of city government for all ceremonial purposes, by the governor for purposes of military law, for civil emergencies, for service of process, execution of contracts, deeds and other documents, and as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The vice mayor shall act as mayor in the absence or disability of the mayor. The vice mayor pro tem shall act as mayor in the absence or disability of the mayor and vice mayor. In addition to other duties, the mayor shall have a voice and a vote in all commission proceedings, but shall have no veto power.

Sec. 4. - Compensation.

The city commission may determine the annual compensation of commissioners by ordinance, but no increase in compensation shall be adopted more frequently than every two (2) years.

Sec. 5. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of the mayor or of a commissioner shall become vacant upon the death, resignation, removal from office in any manner authorized by law, or forfeiture of such office by a member; such vacancy to be declared by the remaining members of the commission.
- (b) *Forfeiture of office or candidacy.* The mayor or a commissioner shall forfeit such office or candidacy if lacking at any time during a term of office or candidacy any qualification for the office prescribed by this charter or by law.
- (c) *Filling of vacancies.* A vacancy of the city commission shall be filled in one of the following ways:
 - (1) If there are less than six (6) months remaining in the unexpired term or if there are less than six (6) months before the next regular city election, the city commission by a majority vote of the remaining members shall choose and appoint a successor to serve until a newly elected commissioner or mayor is qualified.
 - (2) If there are more than six (6) months remaining in the unexpired term and no general city election is scheduled within six (6) months, the city commission shall fill the vacancy by a special election to be held no more than sixty (60) days following the occurrence of the vacancy. If a run-off election is necessary, it shall be scheduled two (2) weeks after the special election.
- (d) *Extraordinary vacancies.* In the event that three (3) or more members of the city commission are removed by death, disability, the law, or forfeiture of office, the governor shall appoint an interim commission that shall call a special election as provided in (c)(2) above and such election shall be held in the same manner as the first election under this charter.

Sec. 6. - Prohibitions.

- (a) *Appointment and removals.* Neither the city commission nor any of its members shall in any manner dictate appointment or removal of any city administrative officers or employees whom the city manager or any of his subordinates are empowered to appoint, but the city commissioners may express their views and fully and discuss with the city manager anything pertaining to appointment and removal of such officers and employees.
- (b) *Interference with administration.* Except for the purpose of inquiries and investigations, the city commission or its 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, and neither the city commission nor its members shall give orders to any such officer or employee either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the city commission from closely scrutinizing by questions and personal observation, all aspects of city government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the city commission. It is the express intent of this charter, however, that recommendations for improvement in city government operations by individual commissioners be made to and through the city manager, so that the manager may coordinate efforts of all city departments to achieve the greatest possible savings through the most efficient and sound means available.
- (c) *Holding other office.* No present or former elected city official shall hold any compensated appointive city office or employment until one year after the expiration of the term for which he was elected.

Sec. 7. - Other appointed officials.

The city commission shall have the power to employ and retain engineers, auditors, attorneys and other professional advisors and consultants. The city commission shall have the power to create and abolish all offices except those created herein, and fix and determine the authority, duties and compensation of all appointed officers and employees.

Sec. 8. - Procedure.

- (a) *Meetings.* The city commission shall meet regularly at least once in every month at such times and places as the city commission may prescribe. Special meetings may be held on the call of the mayor or of a majority of the members upon no less than twenty-four (24) hours notice to each member and the public, except for emergency sessions, which shall not require twenty-four (24) hours notice.
- (b) *Rules and order of business.* The city commission shall determine its own rules and order of business. A majority of the city commission shall constitute a quorum; a smaller number may adjourn a meeting or recess a meeting to a time certain. No ordinance, resolution, or motion shall be adopted except by the affirmative vote of at least three (3) members of the city commission.
- (c) *Voting and minute book.* Voting on ordinances, resolutions, and motions, shall be recorded in an official minute book.
- (d) *Effective date and expiration of ordinances.* All ordinances passed by the city commission shall become effective ten (10) days after passage. Emergency ordinances may become effective upon adoption and shall expire no later than one hundred eighty (180) days after adoption.

Sec. 9. - Initiative and referendum.

- (a) *Defined.*

- (1) *Initiative.* Qualified voters of the city shall have power to propose ordinances to the city commission and if the city commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital improvements program or any emergency ordinance or ordinance relating to the appropriation of money, levy of taxes or salaries of city officers or employees.
 - (2) *Referendum.* The qualified voters of the city shall have power to require reconsideration by the city commission of any adopted ordinance and if the city commission 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 improvements program or any emergency ordinance or ordinance relating to the appropriation of money, levy of taxes or salaries of city officers or employees.
- (b) *Commencement of proceedings.* Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the city clerk or other official designated by the city commission 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 and 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 shall, at the committee's request, issue the appropriate petition blanks to the petitioners committee at the committee's expense.

(c) *Petitions.*

- (1) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least fifteen percent (15%) of the total number of qualified voters registered to vote at the last general city election.
 - (2) *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.
 - (3) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, and that he believes them to be the genuine signature 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.
 - (4) *Time for filing referendum petitions.* Referendum petitions must be filed within thirty (30) days after adoption by the city commission of the ordinance sought to be reconsidered.
- (d) *Procedure for filing.*
- (1) *Certificate of sufficiency; amendment.* Within twenty (20) days after the initiative petition is filed and five (5) days for a referendum petition, the supervisor of elections shall complete a certificate as to its sufficiency, specify if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the city clerk. The city clerk shall promptly send a copy of the certificate to the petitioners committee by certified mail. Grounds for insufficiency are only those specified in subsection (c). 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 certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsections (2) and (3) of section 9(c) and within five (5) days after it is filed the supervisor of elections shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the city clerk. The city clerk shall promptly send a copy of such certificate to the petitioners committee by certified mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition is certified insufficient and the petitioners committee does not elect to amend, the city clerk or other official designated by the city commission shall promptly present his certificate to the city commission.

(2) *Reserved.*

(e) *Referendum petitions; suspension of effective ordinance.* When a referendum petition is filed with the city clerk the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition, or;
- (2) The petitioners committee withdraws the petition, or;
- (3) The city commission repeals the ordinance, or;
- (4) A vote of city on the ordinance has been certified.

(f) *Action on petitions.*

- (1) *Action by city commission.* When an initiative or referendum petition has finally been determined sufficient, the city commission shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the city commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the electors of the city.
- (2) *Submission to voters.* A vote of the city electors on a proposed or referred ordinance shall be held not less than ninety (90) days and not later than one-hundred eighty (180) days from the date that the petition was considered by the city commission. If no general city election is to be held within the period described in this subsection, the city commission shall provide for a special election; except that the city commission may, in its discretion provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) *Withdrawal of petitions.* An initiative or referendum petition may only be withdrawn by an affidavit filed with the city clerk, signed by at least four (4) members of the petitioners' committee, requesting such withdrawal. Said affidavit must affirmatively state that the goals, aims or purposes of the initiative or referendum have been (1) substantially and materially achieved; or (2) otherwise made moot, and must be filed not later than the fifteenth day preceding the day scheduled for a vote of the city. Upon filing of an affidavit, the petition shall have no further force or effect, and all proceedings thereon shall be terminated.

(g) *Results of election.*

- (1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its

favor, it shall be considered adopted upon certification of the election results and shall be created in all respects in the same manner as ordinances of the same kind adopted by the city 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.

- (2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Ord. No. 2004-5, §§ 4, 5, 1-6-04; Ord. No. 2004-6, § 2, 1-6-04)

ARTICLE IV. - ADMINISTRATIVE

Sec. 1. - City manager.

There shall be a city manager who shall be the chief administrative officer of the city. The city manager shall be responsible to the city commission for the administration of all city affairs placed in his charge by, or under this charter, the ordinances of the city, resolutions and motions of the city commission.

Sec. 2. - Appointment; removal; compensation.

- (a) *Appointment.* The city commission shall appoint a city manager for an indefinite term by a majority vote of all the city commissioners.
- (b) *Removal.* The city commission may remove the city manager by a majority vote as provided herein and the manager shall hold office at the pleasure of the city commission.
- (c) *Compensation.* The compensation of the city manager shall be fixed by the city commission.

Sec. 3. - City manager vacancy.

During any vacancy in the office of city manager, the city commission may designate any competent person, except the mayor or any member of the city commission, to execute the functions of the office of city manager.

Sec. 4. - Acting city manager.

By letter filed with the city commission, the city manager shall designate, subject to approval of the city commission, a qualified city administrative officer to exercise the powers and perform the duties of city manager during any absence or disability. During such absence or disability, the city commission may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return, or his disability shall cease.

Sec. 5. - Powers and duties of the city manager.

The city manager shall:

- (a) Appoint, and when deemed necessary for the good of the city, suspend or remove all city employees and appointive administrative officers provided for, by, or under this charter, except as otherwise provided by law, or this charter. The city manager may authorize any subordinate

- administrative officer to exercise these powers with respect to subordinates in that officer's department, or office;
- (b) Direct and supervise the administration of all departments, and offices of the city, except as otherwise provided by this charter or by law;
 - (c) Attend all city commission meetings and shall have the right to take part in discussion, but may not vote;
 - (d) See that all laws, provisions of this charter and lawful acts of the city commission, subject to enforcement by the city manager or subordinate officers are faithfully executed;
 - (e) Prepare and submit a balanced proposal annual budget, budget message and capital improvements program to the city commission in a form provided by ordinance;
 - (f) Submit to the city commission and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;
 - (g) Make such other reports as the city commission may require concerning the operations of city departments and offices;
 - (h) Keep the city commission fully advised as to the financial condition and future needs of the city and make such recommendation to the city commission concerning the affairs of the city as deemed desirable;
 - (i) Perform such other duties as are specified in this charter or may be required by the city commission.

Sec. 6. - City clerk.

There shall be a city clerk who shall be responsible to the city manager for the proper administration of all affairs of the city relating to recordkeeping and to that end the powers and duties of the city clerk are and shall be:

- (a) To attend all official meetings of the city commission in person or by deputy and keep minutes of its proceedings which, after being approved, shall be engrossed in a well-bound book to be titled "Minute Book" and signed by the city clerk.
- (b) To be the custodian of the city seal and of all records and papers of a general or permanent character pertaining to the affairs of the city.
- (c) To attest all executory contracts made in behalf of the city as evidence of the authorization of such contracts by the city commission; and no executory contracts made in behalf of the city or to which the city is a party shall be valid unless attested by the city clerk.
- (d) To preserve, file and index all contracts, deeds and other records to which the city is a party, which file and record shall be open to the inspection of all interested persons at all reasonable times.
- (e) To furnish the city commission at any time such reports, data and information as may be necessary to fully inform it as to the affairs of the city, furnishing it regularly with such detailed reports as the city commission or city manager may determine.
- (f) To perform such other duties as may be specified by the city manager.

Sec. 7. - Deputy city clerk(s).

By letter filed with the city manager, the city clerk shall designate, subject to the approval of the city manager, one or more qualified city administrative employees to exercise the powers and perform the duties of city clerk during any absence, physical disability or nonavailability. During such absence, physical disability or nonavailability, the city manager may revoke such designation at any time and appoint another employee or employees of the city to serve in such capacity.

Sec. 8. - Surety bonds.

Each appointive officer whose position is established in accordance with Article I, section 4(b)(2) herein, shall furnish to the city, as a condition of employment, a surety bond in an amount to be established by ordinance, guaranteeing the faithful performance of said officer. The city attorney, police chief and fire chief shall be exempt from this requirement and the purchasing director shall comply with this requirement. Such surety bond shall be paid for by the city.

Sec. 9. - Public utilities.

The city commission shall not sell, lease, transfer or convey or otherwise dispose of any public utility plant or plants owned by the city without the affirmative vote of a majority of the city electors upon an ordinance stating the terms and conditions of such sale, lease, transfer, conveyance, or disposition.

Sec. 10. - Police and fire departments.

- (a) *System ratified.* The civil service system, as adopted pursuant to Chapter 17166, Laws of Florida, is hereby ratified and adopted and by reference made a part hereof.
- (b) *Certain appointive officers.* The eligible lists for police chief and fire chief shall be open to all qualified persons, regardless of whether they are employed in the police department or fire department, as the case may be. Appointments to the positions of police chief and fire chief shall be made by the city manager and shall not be subject to final approval by the civil service board.
- (c) The police and fire chief residency shall be established by ordinance.
- (d) All persons regularly employed by a municipality as police officers or fire officers, excluding those holding the rank of police chief, deputy police chief, major and captain in the police department and fire chief, deputy fire chief and assistant fire chief and those persons who are members of the police and fire departments engaged in clerical work solely for said police and fire departments, shall be construed to come within the provisions of this act, but this act shall not include any officer or person employed for temporary duty only. Notwithstanding the preceding sentence, all persons holding the rank of police chief, deputy police chief, major and captain in the police department and fire chief, deputy fire chief, and assistant fire chief on the effective date of the exclusion of such ranks from the provisions of this act shall continue to come within the provisions of this act, unless and until they are promoted to a higher rank within the department. Employees of the municipality, coming within the provisions of this act, shall be employed and retained in employment and advanced to any higher grade on merit and fitness only, and the merit and fitness of any applicant for said departments, or for advancement therein, shall be determined by competitive examination, as hereinafter provided.

(Ord. No. 93-27, § 1, 10-19-93; Ord. No. 93-32, § 1, 12-9-93; Ord. No. 93-33, § 1, 12-7-93; Ord. No. 2007-48, § 3, 11-6-07)

Sec. 11. - Building height limitation.

East of Dixie Highway within the city no building or part thereof shall be constructed which exceeds a vertical height of sixty-five (65) feet above grade. West of Dixie Highway within the city no building or part thereof shall be constructed which exceeds a vertical height of one hundred (100) feet above grade.

(Ord. No. 96-32, § 1, 12-5-96)

Editor's note— On March 12, 2013, a referendum was passed approving an amendment to the charter, as set forth in City Ordinance 2012-30, which added further building height restrictions. Effective June 5, 2013, the Florida Legislature enacted amendments to section 163.3167(8), Florida Statutes, which nullified the referendum and voided the charter amendment.

Sec. 12. - Procurement limitation.

No procurement of commodities or services, or any combination thereof, in excess of such threshold amount as may be adopted by ordinance, for any single transaction shall be made, unless made upon competitive bids, except:

- (a) For emergencies, declared by the city manager when the delay incident to competitive bidding would cause a serious threat to life, safety, health or property.
- (b) When bids have been awarded by other governmental agencies, and the city can purchase at the same price.
- (c) When not practicable or advantageous for the city as declared by the city commission.

(Ord. No. 88-8, § 1, 4-4-88; Ord. No. 96-33, § 1, 12-5-96; Ord. No. 2004-5, § 10, 1-6-04)

Sec. 13. - Impact fees.

To the extent permitted by law, the city commission shall actively or passively enact legislation requiring developers of real property within the city and within the utility service areas, to pay for the impact of such development, upon the facilities, utilities and services of the city.

ARTICLE V. - QUALIFICATIONS AND ELECTIONS

Sec. 1. - Nonpartisan elections.

All qualifications and elections for the offices of mayor and city commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot.

Sec. 2. - Candidacy.

- (a) Any person who has been domiciled within the city for a period of not less than six (6) months immediately preceding the first day of the qualifying period shall be eligible to qualify for the office of mayor. Any person who has been domiciled within an election district for a period of not less than six (6) months immediately preceding the first day of the qualifying period shall be eligible to qualify for office

of city commissioner from said district. For purposes of this subsection, a person shall be considered to be domiciled where he or she has established a fixed habitation or primary abode and intends to remain indefinitely.

- (b) Candidates for the office of mayor or city commissioner shall qualify for such office 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 law or ordinance.

(Ord. No. 92-22, § 1, 1-4-92)

Sec. 3. - Reserved.

Editor's note— Ord. No. 2004-5, § 6, adopted Jan. 6, 2004, repealed article V, section 3 in its entirety. Former article V, section 3 pertained to the form of ballots.

Sec. 4. - General, special and run-off elections.

Whenever a general or a special election is held to fill any elective office in the city, the candidate receiving a majority of the votes cast at such election to fill such office shall be declared to be duly elected; provided that in the event no candidate for a particular elective office shall receive a majority of the votes cast at such election to fill such office, then a run-off election shall be held two (2) weeks after the original election to elect a candidate to fill such office; provided further that in such event only the names of the two (2) candidates having received the greatest number of votes in the election for such office shall be submitted to the electors and the one receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further, that should two (2) or more candidates receive an equal number of votes to any such office, so that it cannot be determined which two (2) had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the run-off election and the candidate receiving the greatest number of votes at such election shall be declared elected to such office, regardless of whether such candidate received a majority of the votes cast to fill such office at such run-off election.

Sec. 5. - Unopposed candidates.

In the event not more than one person qualified as a candidate for a designated seat on the city commission to be filled at an election, that seat shall not be listed on the general city election ballot. Each unopposed candidate shall be deemed to have voted for himself and thereafter declared to be duly elected to such office.

Sec. 6. - Recall.

The qualified electors of the city shall have the power to recall and remove from office any elected official of the city as provided by general law.

ARTICLE VI. - TRANSITION SCHEDULE

Sec. 1. - Continuation of former charter provisions.

All provisions of Chapter 25962, Laws of Florida (1949), being the former charter, 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.

Cross reference— Ch. 25962, Laws of Fla. (1949), Subpt. D.

Sec. 2. - Ordinances preserved.

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

Sec. 3. - Rights of officers and employees.

Nothing in this charter except as otherwise specifically provided shall effect or impair the rights or privileges of the persons who are city officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected. Nothing contained herein shall require incumbent appointive officers to furnish surety bonds where none were required prior to implementation of this charter.

Sec. 4. - 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 this charter.

Sec. 5. - Miscellaneous provisions.

In case any one or more of the sections or provisions of this charter or the application of such sections or provisions to any situation shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this charter or the application of such sections or provisions as to any other situation and it is intended that this charter shall be construed and applied as if such unconstitutional section or provision had not been included herein.

Sec. 6. - Deletion of obsolete schedule items.

The city commission shall have power, by resolution, to delete from this Article VI any section, including this one, when all events to which this section to be deleted is or could become applicable have occurred.