



## **CITY CHARTER**

(as amended in 2016)

### **PREAMBLE**

We, the citizens of this city, in order to build a municipality which enhances the ideals of community living, to secure the benefits of municipal home rule and local self-government granted to us by the laws of this state, and to promote our God given rights of life, liberty, and the pursuit of happiness, do hereby adopt this as our charter for the city of Palm Bay, in the county of Brevard, state of Florida.

### **ARTICLE I. CREATION, POWERS AND DEFINITIONS**

#### **Section 1.01 Creation, Powers, and Definitions.**

The existing municipal corporation known as the city of Palm Bay, Brevard County, Florida, is hereby continued and re-established. It shall have and may exercise all governmental, corporate and proprietary powers under the Constitution, general and special acts of the state of Florida as fully and completely as if specifically enumerated in this charter to enable it to conduct municipal government, perform municipal functions and render municipal services. Wherever the word “city” shall appear in this charter, it shall be construed to mean the “city of Palm Bay”.

Wherever the word “manager” shall appear in this charter, it shall be construed to mean the “city manager”. Wherever the words “council”, “city council”, or “city of Palm Bay” shall appear in this charter, it shall be construed to mean “the mayor and the other councilmembers”, unless specifically excepted by other provisions of this charter.

When any reference herein is made to any gender, such reference shall be deemed to include either masculine, feminine or neuter, as appropriate, and any reference herein to any number

shall be deemed to include both singular and plural where the context of the provisions of this document shall permit or require.

### **Section 1.02 Incorporation.**

The existing municipal corporation known as the city of Palm Bay, Brevard County, Florida, is hereby continued and re-established. The inhabitants of the territory hereinafter described shall constitute a body politic and corporate in perpetuity:

Begin at a point on the west channel of the Indian River which point of beginning is projected from and parallel to the north boundary line of Section 31, Township 28 South, Range 38 East, from said point of beginning run west and along the north boundary line of Section 31, said township and range, to its point of intersection with the western right-of-way boundary of U.S. Highway No. 1 (Florida State Road No. 5, Road Section No. 70010-277 per right-of-way map dated 3-27-61); thence run southerly along said western right-of-way boundary a distance of 229.57 feet more or less to the point of intersection with the northern boundary of Riverview Homes Subdivision as recorded in Plat Book 13, Page 3, of the Public Records of Brevard County, Florida; thence run westerly along said northern boundary line a distance of 290.57 feet to a point; thence run northwesterly on a bearing of N 08°34'13" W a distance of 233.87 feet to a point of intersection with the northern boundary of said Section 31; thence run west along the northern boundary of said Section 31 and continuing across the north boundary line of Section 36 and Section 35, all in Township 28 South, Range 37 East, on to the NW corner of Lot 27, Section 35, Township 28 South, Range 37 East; thence south to the NE corner of Lot 7 of Section 35, Township 28 South, Range 37 East; thence west to the NE corner of Lot 3 of Section 34, Township 28 South, Range 37 East; thence south to the SE corner of Lot 3 of said Section 34; thence west to the NW corner of Lot 29, Section 3, Township 29 South, Range 37 East; thence south to the SW corner of Lot 20 of said Section 3; thence west to the NW corner of Lot 12 of said Section 3; thence south to the SW corner of Lot 12 of said Section 3; thence west to the NW corner of Lot 6 of said Section 3; thence south to the SW corner of Lot 6 of said Section 3; thence west to the SW corner of said Section 3, said SW corner of Section 3 being the NW corner of said Section 10, Township 29 South, Range 37 East; thence south along the east line of Section 9, Section 16, Section 21, Section 28, and Section 33, all in Township 29 South, Range 37 East, to the NW corner of the SW $\frac{1}{4}$  of Section 34;

thence east along the north line of the SW $\frac{1}{4}$  of Section 34 to the NE corner of the SW $\frac{1}{4}$  of said Section 34; thence south along the east line of the SW $\frac{1}{4}$  of said Section 34 to the south line of said Section 34; thence west along the south line of said Section 34, Section 33, Section 32, and Section 31, all in Township 29 South, Range 37 East, and continue west along the south line of Section 36, Section 35, and Section 34, Township 29 South, Range 36 East, to the SW corner of said Section 34, Township 29 South, Range 36 East; thence north along the west line of Section 34, Section 27, Section 22, Section 15, Section 10, and Section 3, all in said Township and Range to the SW corner of the NW $\frac{1}{4}$  of said Section 3; thence east long [along] the south line of the NW $\frac{1}{4}$  of said Section 3 to the SE corner of the NW $\frac{1}{4}$  of said Section 3; thence north along the east line of the NW $\frac{1}{4}$  of said Section 3 to the north line of Section 3, Township 29 South, Range 36 East, and the south line of Section 34, Township 28 South, Range 36 East; thence west along said south line of Section 34, Section 33, and Section 32 to the SW corner of the E $\frac{1}{2}$  of Section 32, of said Township and Range; thence north along the west line of said E $\frac{1}{2}$  of Section 32 to the north line of said Section 32; thence east along the north line of said Section 32 and Section 33 to the NW corner of the E $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 33; thence south along the west line of said E $\frac{1}{4}$  of the SW corner thereof; thence east along the south line thereof to the west line of the E $\frac{1}{2}$  of said Section 33; (there is expressly excepted from the corporate limits herein established the following described property: The N $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 33, Township 28 South, Range 36 East); thence run north along the west line of the E $\frac{1}{2}$  of Section 33, Section 28, and Section 21, all in Township 28 South, Range 36 East, to the north line of said Section 21; thence east along the north line of Section 21, Section 22, and Section 23 of said Township and Range, to the NE corner of said Section 23; thence south along the east line of said Section 23, to the SE corner of the NE $\frac{1}{4}$  of said Section 23; thence east along the north line of the S $\frac{1}{2}$  of Section 24 of said Township and Range, to the NE corner of the S $\frac{1}{2}$  of said Section 24; thence continue east along the north line of the S $\frac{1}{2}$  of Section 19, Section 20, and Section 21, Township 28 South, Range 37 East, to the SW corner of Lot 17 of Section 21, Township 28 South, Range 37 East; thence north along the west line of said Lot 17; thence east along the south line of the north 735 feet of said Lot 17 to the east line of Section 21, Township 28 South, Range 37 East; thence north along the east line of said Section 21 to the SE corner of the north 435 feet of said Lot 17; thence west along the south line of the north

435 feet of said Lot 17 a distance of 280 feet; thence north and parallel with the east line of Lot 17 a distance of 135 feet to the south line of the north 300 feet of said Lot 17; thence east along the south line of the north 300 feet a distance of 280 feet to the east line of Section 21, Township 28 South, Range 37 East; thence north along the east line of said Section 21 to the SE corner of the north 225 feet of said Lot 17; thence west along the south line of the north 225 feet of said Lot 17 to the SW corner of the north 225 feet of said Lot 17; thence north along the west line of said Lot 17 and Lot 32 to the north line of said Section 21 ; thence east along the north line of said Section 21 and Section 22 to the SW corner of Section 14 of said Township and Range; thence north along the west line of said Section 14 to the NW corner of said Section 14; thence east along the north line of said Section 14 to the west right-of-way of the Florida East Coast Railway; thence in a northerly direction and along the west right-of-way of the Florida East Coast Railway to a point on the south line of the north one-half of the Northeast one-quarter of the SW $\frac{1}{4}$  of Section 11 of said Township and Range; thence east on the south line of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 11 to a point on the west line of Government Lot 3 of said Section 11; thence north along the west line of said Government Lot 3 to the north line of the S $\frac{1}{2}$  of said Section 11; thence east along the north line of the S $\frac{1}{2}$  of said Section 11 and on a continued projection thereof to a point on the West Channel of the Indian River; thence in a southerly direction along the West Channel of the Indian River to the point of beginning.

#### **Section 1.04 Construction.**

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

#### **Section 1.05 Succession.**

The city shall continue to own and possess all property, real and personal, property rights heretofore owned, possessed or held by the city, interest, uncollected taxes, franchises,

claims, judgments, and may sue and be sued. The city shall assume, manage, and dispose of all trusts in any way connected therewith and may purchase, receive, hold and enjoy and sell and dispose of any real and personal property.

#### **Section 1.06 Intergovernmental Relations.**

The city may exercise any of its powers to perform any of its functions and may participate in the financing thereof, jointly or in corporation, by contract or otherwise, with any one or more states or agencies thereof, other counties or municipalities, or the United States or agencies thereof, to the fullest extent permitted by law.

#### **Section 1.07 Corporate Seal.**

The city shall have a common seal and the council may change the same at its pleasure. The keeper of the seal shall be the city clerk.

### **ARTICLE II. BOUNDARIES**

#### **Section 2.01 Description of boundaries.**

The boundaries of the city shall remain fixed and established as they exist on the date this charter takes effect. Changes in boundaries shall be accomplished as prescribed by law.

### **ARTICLE III. LEGISLATIVE**

#### **Section 3.01 Form of Government.**

The form of government provided by this charter shall be known as the “council-manager government”. Pursuant to its provisions and subject only to the limitations imposed by the Constitution, general and special acts and laws of the state of Florida and by this charter, all legislative powers of the city shall be vested in an elected council, hereinafter referred to as the “council”. It shall enact ordinances, adopt resolutions, adopt budgets, determine policies, and appoint a city manager. The city manager shall execute the laws and administer the government of the city. All powers of the city shall be exercised in the manner prescribed by this charter. If the manner is not prescribed, then the powers shall be exercised in such manner as may be prescribed by ordinances.

### **Section 3.02 City Council; Composition.**

There shall be a five (5) member council consisting of a mayor and four (4) other members, who shall be electors of the city.

### **Section 3.03 Compensation.**

Effective November 9, 2016, the salary for the office of Mayor shall be at the rate of 20 cents per capita, and the salary for the office of Councilmember shall be set at the rate of 10 cents per capita. The per capita numbers utilized shall be the population as of the date of approval of this revision as set forth in the most recent population estimate of the Bureau of Economic and Business Research of the University of Florida. The annual salary of the Council shall not be increased by more than the increase in the City of Palm Bay, Florida City Charter As Amended in 2016 Page 6 of 26 Consumer Price Index, or the annual increase given to City employees, whichever is lower. The annual salary shall be reviewed during the City's annual budget process. No increase in salary shall become effective until October 1.

### **Section 3.04 Mayor and Deputy Mayor.**

The mayor shall preside at meetings of the council, shall be recognized as head of city government for all ceremonial purposes, and by the governor for purposes of military law. The mayor shall be the person upon whom service of process can be made. The mayor shall sign contracts, deeds, and other documents, and shall be 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. Annually, the mayor shall deliver a state-of-the-city message. At the first council meeting following the first Tuesday after the first Monday in November or following any city run-off election, whichever is later, the council shall elect one of its members as deputy mayor. In case of death, resignation, or removal of the mayor, the deputy mayor shall serve as mayor until the vacancy of the mayor's office is filled in accordance with subsection 3.072, "Filling of vacancies".

### **Section 3.05 Prohibitions.**

3.051 Appointment and removals. No member of the council shall, in any manner, dictate the appointment or removal of any city administrative officer or employee whom the city manager

or any of his subordinates are empowered to appoint. However, the council may express its view and fully and freely discuss, with the manager, anything pertaining to appointment and removal of such officer or employee.

3.052 Interference with administration. Neither the council nor its members shall either direct, interfere, or otherwise deal with city officers and employees who are subject to the direction and supervision of the city manager, except through the city manager. Neither the council nor its members shall give orders to any such officer or employee. However, after reasonable notice to the city manager, individual members of the council may closely scrutinize, by questions and observations, all aspects of city government operations, solely for the purpose of obtaining information to assist the council in the formulation of sound policies to be considered. All recommendations for improvement in city government operation by individual councilmembers shall be made to and through the city manager.

*3.053 Holding other office.*

(a) No former elected city official, nor any relative of such former elected city official, shall hold any compensated appointive city office or employment until, at least, two (2) years after the expiration of the term for which elected. This provision shall not apply to relatives of any current or former elected city official holding a compensated appointive city office or position of employment prior to November 9, 2016.

(b) For the purposes of this section, "relative" shall mean an individual who is related to the former elected city official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

*3.054 Conflict of interest.* Officers, employees, or elected officials shall not directly or indirectly contract to do any work, render any service or furnish any material or equipment to or for the city with any association, partnership, firm, business entity, person or corporation in which they have a financial interest.

### **Section 3.06 Vacancies.**

The office of a councilmember shall become vacant upon death, resignation, removal from office in any manner authorized by law or by forfeiture of that office, and such vacancy is to be declared, by resolution stating cause, by the remaining members of the council at a regular or special council meeting.

*3.061 Forfeiture of office.* If, during the term of office, the state commission on ethics finds that a councilmember has violated any provision of this charter or is found guilty by a judge or jury or pleads guilty or nolo contendere to any felony or a crime involving moral turpitude whether or not adjudication is withheld, such councilmember shall be deemed to have forfeited his office. Forfeiture of such office shall be affirmed and ratified by a resolution duly adopted by the other members of the city council.

*3.062 Filling of vacancies.* When a vacancy occurs on council as a result of death, resignation, illness, disability, written court order, forfeiture of office, or other lawful written order or action, such vacancy shall be filled in accordance with the procedures prescribed by ordinance.

#### *3.063 Absenteeism.*

(1) Absence from four (4) consecutive regular meetings of the council, or a total of six (6) within a twelve (12) month period, shall vacate the seat of the member. The city clerk shall notify the council of the third and fourth consecutive absences or the sixth within a twelve (12) month period of any councilmember.

(2) Absences created by illness, mental or physical disability, written suspension by court order, or other lawful written order or action shall not be considered absences for purposes of this subsection. However, the existence of an illness or mental or physical disability must be established by written medical evidence setting forth in detail the nature and cause of the illness or mental or physical disability and the prognosis thereof.

### **Section 3.07 City Clerk.**

*3.071 Removal.* The council may remove the city clerk by majority vote of all the councilmembers, by a resolution, which states the cause(s) for removal.



3.072 Compensation. The compensation of the city clerk shall be fixed by the council and shall not be reduced during the city clerk's period of employment except by the consent of the city clerk.

### **Section 3.08 Procedures.**

3.081 Meetings. The council shall have regular council meetings at least twice each month, at the city hall or other municipal building, at such times and places as the council may prescribe. Special meetings and workshops may be held at the call of any councilmember and, whenever practicable, upon no less than twenty-four (24) hours verbal and written notice to each member and the public. Such notice shall state the specific purpose or purposes of the meeting. No additional items shall be considered at special meetings.

3.082 Rules and order. The council shall determine its own rules and order of business.

3.083 Voting. A majority of the council shall constitute a quorum. No action of the council, except as otherwise provided in the preceding sentence and in Section 3.06, shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

### **Section 3.09 Petitions to Amend the City Charter or to Adopt or Repeal Ordinances.**

(1) The electors of the city shall have the power, by petition, to have a proposed amendment to the city charter placed on the ballot of the next regular election or at a special election called for such purpose, for the electorate to either adopt or reject.

(2) The electors of the city shall have the power, by petition, to propose ordinances to the council. If the council fails to adopt an ordinance so proposed without any change in substance, such ordinance shall be placed on the ballot of the next regular election or at a special election called for such purpose, for the electorate to either adopt or reject, provided that such power to petition shall not extend to matters relating to the budget or capital program or any ordinance relating to the appropriation of money, method of levy of taxes, zoning, or salaries of city officers or employees.

(3) The electors of the city shall have the power, by petition, to request the council to repeal any adopted ordinance; and if the council fails to repeal such ordinance, it shall be placed on the ballot of the next regular election for the electorate to consider;

provided that such power to petition shall not extend to matters relating to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money, method of levy of taxes, zoning, or salaries of city officers or employees. City of Palm Bay, Florida City Charter As Amended in 2016 Page 11 of 26

(4) The procedures to have an issue placed on the ballot shall be as set forth in this section, and shall be subject to other governmental agencies' requirements that may affect this section.

*3.091 Commencement of proceedings.* Any elector(s) may commence proceedings by filing with the city clerk an affidavit stating that the elector(s) will constitute a committee being responsible to circulate a 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 charter amendment, the proposed ordinance or citing the ordinance sought to be repealed. Within ten (10) days after the affidavit is filed, the city clerk shall issue the appropriate petition blanks to the petitioners' committee. The committee shall be responsible for all costs involved in the petitioning process. The process to amend the city charter or to adopt or repeal an ordinance shall be completed and the supervisor of election's certificate of sufficiency submitted to the city council, as provided herein, not less than ninety (90) days before a special or regular municipal election.

### 3.092 Petitions.

(1) Number of signatures. All petitions must be signed by at least ten percent (10%) of the electors of the city. They need not be in affidavit form.

(2) Form and content. Each page of a petition shall be numbered, shall be uniform in size and style, shall be executed in ink, and shall be followed by the address of the person signing. Each petition circulated shall contain or have attached to it, at least once, the full text of the proposed charter amendment, the proposed ordinance, or the ordinance sought to be repealed. Each page provided for signatures shall contain the caption of either the proposed charter amendment, the proposed ordinance, or the ordinance sought to be repealed. City of Palm Bay, Florida City Charter As Amended in 2016 Page 12 of 26

(3) Affidavit of circulators. Each petition shall have attached to it, when filed, an affidavit executed by the circulator indicating the number of pages and the number of signatures contained therein, that the circulator personally circulated the paper, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be signatures of electors, and that each elector had an opportunity before signing to read the full text of the proposed charter amendment, the proposed ordinance or the ordinance sought to be repealed.

*3.093 Certificate of clerk; amendment.* Within ten (10) days after the petition has been filed, the city clerk shall submit it to the county supervisor of elections to certify the number of registered voters who signed it. The city clerk shall, within three (3) working days after receipt, send a copy of the supervisor's certificate to the committee, by certified mail, indicating its sufficiency or insufficiency and the grounds therefore [therefor]. Grounds for insufficiency are only those specified in subsection 3.092. A petition certified insufficient may be amended once if the committee files with the city clerk (i) a notice of intention to amend the petition within two (2) working days after receiving the copy of the certificate and (ii) an amended petition within ten (10) working days after receiving the copy of such certificate. Such amended petition shall comply with the requirements of subsection 3.092 and the city clerk shall, within three (3) working days after receipt of the amended petition, notify the committee either that it is sufficient or insufficient and the reasons for same. If the insufficiency is based upon the lack of requisite signatures, within five (5) working days after it is filed, the city clerk shall resubmit the signatures to the county supervisor of elections to certify the number of registered voters who signed it. The city clerk shall, within three (3) working days after receipt, send a copy of the supervisor's certificate to the 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 or amended petition is certified insufficient, the city clerk shall present a certificate to the council, at the City of Palm Bay, Florida City Charter As Amended in 2016 Page 13 of 26 next regular or special council meeting, and the certificate shall then be a final determination as to the sufficiency or insufficiency of the petition.

*3.094 Action by council.* When a petition to amend the charter or to adopt or repeal an ordinance has been determined sufficient, the council shall consider such amendment, adoption, or repeal. If the council fails to adopt a proposed ordinance without any change in substance or fails to repeal an ordinance, both or either of them shall be submitted to the

electors of the city in accordance with subsection 3.095. If a petition to amend the charter is deemed sufficient, the proposed amendment shall be submitted to the electors of the city in accordance with subsection 3.095.

*3.095 Submission to electors.* The city council shall submit the charter amendment, adoption or repeal of an ordinance to the electorate at a special or regular municipal election held no less than ninety (90) days nor more than one hundred eighty (180) days from the date the supervisor of elections' certificate of sufficiency is presented to the city council. A copy of the ordinance to be adopted or repealed or a copy of the proposed charter amendment, or a summary thereof, shall be published in a newspaper of general circulation once in the fifth week prior to the election and once in the third week prior to the election. The full text of an ordinance to be adopted or repealed and charter amendment shall be posted at the polls.

*3.096 Results of elections.*

(1) If a majority of the voting electors vote in favor of a proposed ordinance, it shall be considered adopted upon certification and approval of the election results and shall be treated as an ordinance adopted by the council. In the event conflicting ordinances are approved at the same election, the one receiving the greater number of "yes" votes shall become effective.

(2) If a majority of the electors vote to repeal an ordinance, the ordinance shall be considered repealed upon certification and approval of the election results.

(3) If a majority of the voting electors vote in favor of a proposed amendment to the city charter, the amendment to the charter shall become effective upon certification by the state of Florida. The city clerk shall submit the results of the election to the state within five (5) days after the city council certifies the results. In the event conflicting amendments are approved at the same election, the one receiving the greater number of "yes" votes shall become effective.

### **Section 3.10 Ordinances and resolutions.**

Every proposed ordinance or resolution shall be introduced in the final written or printed form required for adoption. The enacting clause of ordinances shall recite: "Be it enacted by the city council of the city of Palm Bay, Brevard County, Florida."

A proposed ordinance may be read by title, or in full, on at least two (2) separate days. A proposed ordinance may be amended at either reading. However, no ordinance shall be amended at the second or later reading so as to change its intent without a reading at least ten (10) days later. The council shall provide for public hearings or for the publication of notice concerning the subject matter of any proposed ordinance or amendment as provided by general law. Ordinances and resolutions shall become effective upon passage unless otherwise specified therein. Every ordinance or resolution shall, upon final passage, be authenticated by the mayor and the city clerk, and shall be recorded and published as the council shall prescribe.

3.101 Emergency ordinances. Notwithstanding the provisions of the foregoing section, the council may enact emergency ordinances to meet serious public emergencies, as determined by the city council, affecting the general welfare, health or safety of the city or its inhabitants. An emergency ordinance shall be introduced in the form and manner prescribed for other ordinances except that it City of Palm Bay, Florida City Charter As Amended in 2016 Page 15 of 26 shall be plainly designated as an emergency ordinance and the conditions constituting such emergency shall be stated therein. It may be adopted or rejected, with or without amendment, at the meeting at which introduced. Emergency ordinances shall expire thirty (30) days after enactment unless sooner specified therein.

### **Section 3.11 City Attorney.**

3.111 Appointment or employment. The city council shall appoint or employ a city attorney and such assistant attorney(s) as required to act as legal advisor(s) to the council and officials of the city as designated in 3.113(b) and serve at the pleasure of the council.

3.112 Qualifications. The city attorney shall be a practicing attorney with at least five (5) years of experience and practice in the courts of the state of Florida.

3.113 Duties.

(a) General. The city attorney, and/or his assistant attorney(s), shall perform such professional duties as may be required by ordinance or resolution of the council,

or as prescribed for city attorneys under the general laws of the state of Florida, that are not inconsistent with the specific provisions of this charter.

(b) Legal advisor. The city attorney, and/or assistant attorney(s), shall provide required legal advice to the council and to the city manager. Officially constituted boards, committees, and commissions of the city, relating to their official duties, may obtain legal advice upon the approval of the council.

3.114 Remuneration. The council shall determine the remuneration to be paid the city attorney and/or assistant attorney(s).

### **Section 3.12 Codes of Technical Regulations.**

The council shall adopt appropriate, standard codes of technical regulations by reference thereto in an adopting ordinance.

## **ARTICLE IV - ADMINISTRATIVE**

### **Section 4.01 City Manager.**

There shall be a city manager who shall be the chief executive and administrative officer of the city. The manager shall be responsible to the council for the administration of all city affairs placed in the manager's charge by or under this charter.

4.011 Appointment. The council shall appoint a manager by a majority vote of all councilmembers. The manager shall be selected solely on the basis of administrative and executive qualifications. At the time of appointment, the manager need not be a resident of the city or state. However, should the manager change residency subsequent to such appointment, the manager shall reside within the city during the manager's tenure.

4.012 Removal. The council may remove the manager by majority vote of all the councilmembers, by a resolution, which states the cause(s) for removal, unless by contract, cause(s) is not required.

4.013 Compensation. The compensation of the manager shall be fixed by the council and shall not be reduced during the manager's period of employment except by the consent of the manager.

4.014 Bond. The city manager shall furnish a surety bond to be approved by the council. The premium of the bond shall be paid by the city. The amount of the bond shall be fixed by the council.

4.015 Powers and duties. The city manager shall:

- (a) Appoint, and when deemed necessary for the good of the city, suspend or remove city employees or appointive administrative officers provided for by this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The manager may authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (b) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;
- (c) Attend council meetings unless excused by council and then he should have a designated replacement;
- (d) Ensure that all laws, provisions of this charter and acts of the council, subject to enforcement by the manager or by officers subject to the manager's direction and supervision, are faithfully executed;
- (e) Prepare and submit the annual budget, budget message, and capital program to the council in a form provided by ordinance;
- (f) Submit to the council 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 council may require concerning the operations of city departments, offices and agencies, subject to the manager's direction and supervision;

(h) Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as deemed desirable;

(i) Execute contracts on behalf of the city pursuant to the provisions of appropriate ordinances or resolutions;

(j) Perform such other duties as are specified in this charter or may be required by the council

4.016 Supervision of departments. Except as otherwise provided in this charter or by general law, the city manager shall be responsible for the supervision and direction of all departments, agencies and offices of the city. All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of the council, the manager may serve as the head of one (1) or more such departments, offices or agencies or may appoint one (1) person as the head of two (2) or more of them.

4.017 Administrative code. The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council.

#### **Section 4.02 Acting City Manager.**

By letter filed with the council, the city manager shall appoint a qualified city administrative officer to exercise the powers and perform the duties of manager during the city manager's temporary absence or disability. During such temporary absence or disability, the council may revoke such appointment at any time and appoint another officer of the city to serve until the city manager shall return or the disability shall cease.

#### **Section 4.03 Personnel System.**

All appointments and promotions of city officials and employees, except those specifically exempted by ordinance, shall be made solely on the basis of merit and qualifications demonstrated by examination or other evidence of competence and to this end, the council



shall, by ordinances, establish personnel policies. The city manager shall establish personnel procedures and rules consistent with these policies.

#### **Section 4.04 Fiscal Year.**

The fiscal year of the city shall begin on the first day of October and end on the last day of September.

#### **Section 4.05 Independent Annual Audit.**

Prior to the end of each fiscal year, the council shall designate certified public accountants to make an independent audit of accounts and all other financial transactions of the city government existing at the end of the fiscal year. Reports of audits shall be made directly to the council. Accountants selected to make such audits shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business. The auditors shall post-audit the books and documents kept by the city and all separate or subordinate accounts kept by any other office, agency or department of the city government. The same auditor or auditing firm shall not perform the city audit for more than four (4) consecutive years.

#### **Section 4.06 Fines, Fees, Forfeitures and Penalties.**

The city shall have the power to impose and collect fines, fees, forfeitures and penalties for enforcement, administration and violation of the provisions of this charter and the ordinances of the city in a manner consistent with law, and to otherwise collect fines, fees, forfeitures, and penalties as may be provided by law. All such sums collected shall be paid to the city finance director, to be deposited in the proper accounts as provided by law.

### **ARTICLE V – QUALIFICATIONS AND ELECTIONS**

#### **Section 5.01 Nonpartisan Elections.**

All elections for councilmembers shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any candidate.

## **Section 5.02 Qualifications.**

Candidates for the office of city council shall be a resident of the city and shall have been for at least two (2) years immediately preceding the election, shall be a registered voter residing at a city address, and shall qualify for such office by complying City of Palm Bay, Florida City Charter As Amended in 2016 Page 20 of 26 with the Florida Statutes and in such manner as may be prescribed by ordinance and shall continue to be a resident and an elector of the city during the term of office.

## **Section 5.03 Form of Ballots.**

The form of the ballot shall be determined by state law and municipal ordinance. A charter amendment or other municipal issue to be voted upon shall be presented for voting as prescribed by state law.

## **Section 5.04 Elections.**

*5.041 Councilmembers.* A councilmember shall be elected to a specific seat on the council. The councilmember shall be elected by receiving the highest vote total of the votes cast in the election for a designated council seat. In the event of a tie vote in a special or regular election in which two (2) or more candidates are seeking the same designated seat on the council, a run-off election will only be held if breaking the tie would determine the successful candidate. Each elective officer shall hold such office until a successor is elected and qualified. Absentee voting shall be permitted in all elections as provided by law.

*5.042 Elections and terms of office.* A primary election and a general election are to be held pursuant to law. The regular or general election of councilmembers shall be held on the first Tuesday after the first Monday of November. Councilmembers shall be elected to a four (4) year term of office and limited to three (3) consecutive four (4) year terms. For the purpose of this limitation, a partial term shall be considered a full term, except for appointments of less than one (1) year. No councilmember may appear on the ballot for reelection if by the end of the current term of office, the councilmember will have served (or, but for resignation, would have served) in that office for twelve (12) consecutive years. All councilmembers shall be elected at-large. The mayor and two (2) other councilmembers, Seats 2 and 3, shall be elected in the same year as the City of

Palm Bay, Florida City Charter As Amended in 2016 Page 21 of 26 presidential election. The two (2) additional councilmembers, Seats 4 and 5, shall be elected in the following even year.

*5.043 Primary elections.* Primary Elections shall be held on the Tuesday nine weeks prior to the general election or such other date as established by applicable general law of the state for primary elections.

(a) Should there be more than two (2) qualifying candidates for Mayor or for a given Council seat, their names will be placed on the primary ballot. The two (2) primary candidates receiving the highest number of votes shall be the candidates in the general election. The candidate receiving the highest number of votes in the general election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three (3) qualifying candidates for Mayor or for a given Council seat, their names will not appear on the primary election ballot but they will appear on the general election ballot. If a candidate for Mayor or for a given Council seat receives more than fifty percent (50%) of the vote in a primary election, then said candidate shall be declared elected to the office and no names shall appear on the general election ballot.

*5.044 Election returns.* Election results shall be determined, certified, and published as provided by law. A regular or special meeting shall be held within three (3) working days following the receipt by the city clerk of the official election results from the supervisor of elections at which those councilmembers present shall be given a certified copy of the official canvass of the election and the city clerk or the clerk's designee shall announce the election results. Immediately thereafter the newly elected official or officials shall then be administered the oath of office.

## **Section 5.05 Recall**

Councilmembers may be removed from office by the electors of the city, through recall, as provided by law. The procedure for recall and filling of vacancies thereunder shall be in accordance with state law.

## **Section 5.06 Election Districts (Voting Precincts)**

5.061 Number of Precincts. The city shall be divided into voting precincts. The boundaries of such precincts shall correspond with the boundaries of the county voting precincts.

5.062 Registration of electors. Registration of electors to qualify them to vote in all elections shall be determined as provided by Florida Statutes.

## **ARTICLE VI – TAXES AND FEES**

### **Section 6.01 Taxes.**

(a) The council shall have full power and authority to levy taxes as authorized by law.

(b) Unless otherwise allowed by this subsection, the City Council shall not impose any ad valorem tax for city purposes at a millage rate which causes the budgeted revenue therefrom to the City to increase over the budgeted ad valorem revenue for the previous fiscal year by more than three percent (3%).

(c) Notwithstanding paragraph (b) of this subsection, the City Council may impose an ad valorem tax for municipal purposes at a rate which exceeds the limitations in paragraph (b) if a supermajority of the City Council concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based and shall be valid for a single budget year.

(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraph (b) of this subsection, the City Council shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll:

1) new construction; 2) additions to or demolitions in whole or in part of existing construction; and 3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation).

(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of

a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection.

### **Section 6.02 Special Assessments.**

City Council shall have the power to impose special assessments for the construction, reconstruction, repair and related maintenance of all roads, streets, boulevards, sidewalks, related lighting, landscaping, street furniture, signage, greenbelts, gutters, pedestrian canopies, swales, culverts, sanitary sewers, storm sewers, outfalls, canals, primary, secondary and tertiary drains, a comprehensive stormwater management system, water mains, water laterals, alternative water supply systems, reclaimed water, aquifer storage and recovery, desalination systems and water distribution systems, including all of the necessary appurtenances and structures thereto. Before the governing body for the city may levy any special assessment, other than those set forth above, involving more than fifty (50) property owners or involving a project expenditure of greater than twenty-five thousand dollars (\$25,000.00), the proposed assessment must first be approved, in writing, by a majority vote of the affected property owners who return a ballot.

### **Section 6.03 Licensing Fees.**

The city may levy reasonable business, professional, and occupational fees on businesses, professions, and occupations, according to law.

## **ARTICLE VII – CITY BORROWING**

### **Section 7.01 Authority to Borrow.**

The council may borrow money, contract loans, and issue notes and bonds as may be authorized by state law.

### **Section 7.02 Bond Issues.**

(a) The council may authorize the issuance of bonds and notes by resolution or ordinance, or if required by the Constitution of the state of Florida by affirmative vote of the electors of Palm Bay, to finance approved city projects.

(b) The council shall approve the terms and manner of sale and distribution or other disposition of any and all notes and bonds it may issue and it shall have any and all powers necessary or convenient to such disposition.

### **Section 7.03 Sinking Funds.**

The council may establish and administer appropriate sinking funds for the satisfaction of any outstanding indebtedness of the city.

## **ARTICLE VIII – PUBLIC SAFETY**

### **Section 8.01 Police Department.**

There shall be a police department.

### **Section 8.02 Fire Department.**

There shall be a fire department.

### **Section 8.03 Civil Defense.**

The city manager shall cause to be prepared and maintained current a plan to deal with all disasters, emergencies and catastrophes such as floods, hurricanes, tornadoes, other “acts-of-God”, riots, and civil disturbances.

## **ARTICLE IX – MISCELLANEOUS PROVISIONS**

### **Section 9.01 Charter Review Commission.**

Within one (1) month after receipt of the results of the federal decennial census in 1990 and following each federal decennial census thereafter, the council shall appoint a commission of no less than ten (10) electors of the city, to be known as a charter review commission. The council may appoint a charter review commission at any other time when deemed appropriate.

This commission shall review and recommend to the council any additions or deletions to this charter as in its judgement it deems advisable. The council shall submit to the electors any proposed additions or deletions to the charter in the manner provided in Article III, Section 3.09, of this charter.

#### **Section 9.02 Boards, Committees, Commissions.**

The council shall establish such boards, committees or commissions, and appoint members, as it deems advisable to make recommendations regarding the general welfare of Palm Bay residents and to insure planned orderly growth and development of the city in accordance with state law.

### **ARTICLE X – TRANSITION SCHEDULE**

#### **Section 10.01 Conflicting Laws and Ordinances.**

Any section of a law, ordinance, or regulation, insofar as it conflicts with or is inconsistent with the provisions of this charter, is hereby repealed.

#### **Section 10.02 Pending Matters.**

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

#### **Section 10.03 Severability Clause.**

If any article, part of article, or any provision of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this City of Palm Bay, Florida City Charter As Amended in 2016 Page 26 of 26 charter nor the context in which such article, part of article, or provision so held invalid may appear, except to the extent that an entire article or part may be inseparably connected in meaning and effect with the provision to which the court holding shall apply.

**Section 10.04 Effective Date.**

This charter, except as herein otherwise provided, shall take effect as prescribed by law. The city clerk shall place the effective date of this charter on the official copy filed in the clerk's office.

Referendum Election: November 8, 2016

Filed with Florida Department of State: December 28, 2016