

TAB 6



City of Palmetto Agenda Item

Meeting Date

7/19/10

Presenter: Mark P. Barnebey

Department: City Attorney

Title:

Amended and Restated Charter and Ordinance 2010-10

BACKGROUND:

After nearly a year of meetings by the Charter Review Committee, the Committee recommended a number of changes to the Charter.

DISCUSSION:

An ordinance has been prepared with the Charter as amended and restated. Some of these were grammatical changes. The substantive changes from the current Charter are summarized by section of the current Charter as follows:

Section 3. The definitions of City and Organizational Meeting were added. The definition of Legal Resident was clarified to ensure that it is a person who has established a permanent residence in the City of Palmetto. The definition of Elector was amended to ensure consistency with Florida Statutes and to make sure that an elector is also a Legal Resident of the City. The definition of General Election was revised to be consistent with Florida law.

Section 9. This section was amended to clarify the qualification requirements for all persons running for Commission office with additional requirements for those elected by voters within a ward.

Section 10. This section was amended to clarify the powers of the Vice Mayor and to specifically state that the Vice Mayor may not exercise veto power when the Mayor is temporarily absent or disabled.

Section 12. The section was amended to clarify the requirements of office if a vacancy occurs on the Commission.

Section 13. This section was amended to reinforce that the Mayor is not a member of the Commission, but shall preside over Commission Meetings.

Section 14. This section was amended to clarify the process for vetoing an ordinance and the process for notifying the Commission and the public of such a veto.

Section 16. This section was amended to clarify the amount to which the Mayor may bid in a judicial sale. It also places a maximum time frame for any appointment to two (2) years.

Section 17. This section was amended to provide for an appointment of the Appointed Officers by the Mayor and confirmation by the City Commission. Additionally time frames for any appointments were modified to ensure the appointments cannot extend beyond December 31 following a General Election for the Mayor's Office. Another clarification was added to provide that only three (3) votes were needed to appoint, suspend or remove an Appointed Officer, if less than five (5) Commissioners were eligible to vote by law, due to voting conflicts or other provisions of law. A provision was also added to ensure that Commissioners are entitled to receive information from Appointed Officers as needed to conduct the duties of their office.

Section 18. This section was amended to provide that the Mayor shall be a legal resident for at least 365 days prior to the last qualifying day for office and shall remain a resident during their term of office.

Section 19. This section was amended to revise the process of selection of Mayor in the event the current Mayor becomes permanently unable to perform the duties of Mayor.

Section 20. This section was amended to provide that a City employee who runs for office shall be placed on an unpaid leave of absence until the day after the election, provided that if the person is unopposed the employee may return to work after the last day of qualifying.

Section 21. This section was amended to eliminate surplus language no longer necessary. The oath of office was amended to reflect the City has a Charter, but not a constitution.

Section 23. This section was amended to be consistent with current Florida Statutes.

Section 24. This section was amended to clarify the impact of the adoption of the amended Charter.

Sections 25 and 26 of the existing Charter were deleted as it was a transitional language which is no longer needed.

Section 30 (now Section 27). This section reflects the appropriate effective date for the Amended Charter, if approved by the electorate.

Ordinance 2010-10 provides for placing the Amended Charter on the ballot for adoption with a proposed title and ballot question. The ballot question cannot exceed 75 words. It is proposed that the Charter be placed on the November 2, 2010 General Election Ballot.

Budgeted Amount: **Budget Page No(s):** **Available Amount:** **Expenditure Amount:**

Additional Budgetary Information:

Funding Source(s): **Sufficient Funds Available:** Yes No **Budget Amendment Required:** Yes No **Source:**

City Attorney Reviewed: Yes No N/A **Advisory Board Recommendation:** For Against N/A **Consistent With:** Yes No N/A

Potential Motion/Direction Requested:

Staff Contact:

Attachments:

ORDINANCE NO. 2010-10

AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, AUTHORIZING SUBMISSION OF AN AMENDMENT OF THE CITY CHARTER TO THE VOTERS AT THE NOVEMBER, 2010 GENERAL ELECTION FOR AN AMENDED AND RESTATED CITY CHARTER; PROVIDING FOR THE CREATION AND POWERS OF THE CITY; PROVIDING FOR SECTIONS RELATING TO HEADINGS, DEFINITIONS, THE FORM OF GOVERNMENT, BOUNDARIES, WARDS, LEGISLATIVE POWERS, COMMISSIONERS, COMMISSIONER QUALIFICATIONS AND OFFICE HOLDING, PROVIDING FOR A VICE MAYOR, COMMISSION MEETINGS, REQUIREMENTS FOR A QUORUM AND NEED FOR A MAJORITY VOTE, COMMISSIONER VACANCIES AND REPLACEMENT, PRESIDING OFFICER, ORDINANCES, AND VETOES; PROVIDING FOR THE EXECUTIVE BRANCH, THE MAYOR, APPOINTED OFFICERS, MAYOR QUALIFICATIONS, AND VACANCY AND REPLACEMENT OF THE MAYOR; PROVIDING FOR ELECTIONS, TERMS OF OFFICE AND THE OATH OF OFFICE, RECALL OF ELECTED OFFICIALS, AMENDMENT AND REFERENDUM OF THE CHARTER, EFFECT ON EXISTING RIGHTS AND ORDINANCES, INTERPRETATIONS OF THE CHARTER, CHARTER REVIEW, AND THE EFFECTIVE DATE OF THIS CHARTER; PROVIDING FOR APPROVAL OF A BALLOT QUESTION; PROVIDING FOR APPROVAL OF BALLOT QUESTION TITLE; PROVIDING FOR PUBLICATION; PROVIDING FOR COORDINATION WITH SUPERVISOR OF ELECTIONS; PROVIDING FOR ELECTION DATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2, Constitution of the State of Florida as revised in 1968, provides for and establishes municipalities and grants to those municipalities certain governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services and authorities said municipalities to exercise any power for municipal purposes, except as otherwise provided by law; and

WHEREAS, Chapter 166, Florida Statutes, "The Municipal Home Rule Powers Act," implements, by general law, the authority and jurisdiction granted to municipalities by the Florida Constitution and establishes home rule for said municipalities; and

WHEREAS, the City of Palmetto is a municipality with a charter form of government;
and

WHEREAS, a City Charter is an important government document to any municipality;
and

WHEREAS, the City determined that it was appropriate for a Charter Review Committee to review the City Charter and recommend amendments of the Charter to the City Commission; and

WHEREAS, after considering the recommendations of the Charter Review Committee, the City Commission of the City of Palmetto finds that it is in the best interests of the people of the City that the City Charter be amended to provide for a more balanced form of government of the City; and

WHEREAS, the City Commission has determined to submit the proposed Charter amendments for approval or disapproval by the electors of the City.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Palmetto:

Section 1. Submission of Proposed Charter. Attached hereto and incorporated herein is **Exhibit "A"**. Exhibit "A" contains the proposed amended and restated Charter of the City of Palmetto.

Section 2. Approval of the Ballot Question. The following statement is hereby approved as the referendum question to be placed upon the ballot; as required by Section 101.161, Florida Statutes:

Shall the City of Palmetto Charter be amended and restated as described in Ordinance 2010-10, updating, clarifying and separating the powers and duties of the Mayor, Vice Mayor, and Commission, specifying qualifications to serve in the offices of Mayor, Vice Mayor and Commissioner, regulating the appointment and service of appointed officers, providing for adoption of City ordinances, City resolutions and amendments of the Charter, and providing for the operation of City government?

Yes _____

No _____

Section 3. Ballot Title. The following is hereby approved as the ballot title as required by Section 101.161, Florida Statutes:

Palmetto Charter amendments providing for a balanced government with related provisions.

Section 4. Coordination. The Mayor and City staff are hereby authorized to coordinate with the office of the Supervisor of Elections in order to do those things necessary to have this referendum placed on the ballot for the general election scheduled for November 2, 2010.

Section 5. Publication. The Amended and Restated Charter shall be available for review at the Clerk's Office City Hall through the date of the election. The Mayor and City staff shall publish the text of the amended Charter, the current Charter, and a Summary of the major amendments for review by the electorate by a variety of means, which may include the City's posting at City Hall and on the website, placing such information in newspapers, flyers, mailers, and other such means as appropriate. The City shall make every reasonable effort to fully inform the electorate prior to the election.

Section 6. Repeal of Ordinance. This Ordinance hereby repeals all ordinances and parts of ordinances in conflict herewith to the extent of such conflict.

Section 7. Severability. Should any portion of this Ordinance be found by a court of competent jurisdiction to be illegal or unconstitutional, then such portion shall be served and the remaining portions of the Ordinance shall be unaffected thereby.

Section 8. Effective Date. This Ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor, or if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes of the City Commission. The Charter Amendments provided herein shall be effective only upon approval of a majority of electors voting on the measure, effective upon certification of election results.

APPROVED AND ADOPTED, by the City Commission, in open session, with a quorum present and voting, this 19th day of July, 2010.

First Reading:	June 21, 2010
Publication:	July 9, 2010
Second Reading and Public Hearing:	July 19, 2010

CITY OF PALMETTO, FLORIDA, BY
AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: _____
SHIRLEY GROOVER BRYANT, MAYOR

ATTEST: James R. Freeman

By: _____
City Clerk

CHARTER

Field Code Changed

- I. General Provisions §§ 1 - 6
- II. Legislative Branch §§ 7 - 14
- III. Executive Branch, §§15 - 19
- IV. Miscellaneous Provisions, §§ 20 – 27

I. GENERAL PROVISIONS

Section 1. Creation and powers.

The City of Palmetto in Manatee County, Florida, created under and by virtue of Chapter 11059, Laws of Florida, as Amended, shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes as set forth in Article VIII, Section 2, Florida Constitution, Chapter 166, Florida Statutes, and as otherwise provided by law.

Section 2. Headings.

The headings ascribed to each section of this charter should not be deemed a part thereof.

Section 3. Definitions.

As used herein, the following terms shall have the meaning set forth. All defined terms shall be in *italic type* when used herein:

Appointed ~~Official~~Officer means such unelected ~~official~~officer of the City as shall be provided for by ordinance.

City means the City of Palmetto.

Elector means a person who is a registered voter as prescribed by general law, and is a *Legal Resident* of the City.

Legal Resident means a person who has established a permanent residence, as defined as that place where a person has his or her true, fixed and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning, within the corporate limits of the City of Palmetto. A person may have only one permanent residence at one time and, once a permanent residence is established outside of the City, it is presumed to continue until the person shows that a change has occurred.

Majority Vote means greater than fifty percent (50%) of the Commissioners present and voting.

Majority Vote of the Commission means three or more votes for or against the proposition.

Organizational Meeting means the first regular meeting of the Commission the first regular meeting in January. At such meeting the Commission may perform such business of the City as may be allowed by law including selection of Vice-Mayor and confirming Appointed Officers, as necessary, in addition to any duties required herein.

General Election means the statewide general election as defined by general law.

Section 4. Form of Government, two branches.

The government of the City shall consist of a Legislative Branch comprised of five elected Commissioners and an Executive Branch consisting of an elected Mayor and such subordinate *Appointed Official Officers* as shall be provided for by ordinance of the City. All elected officials shall be *Electors* of this City. All officials and officers shall perform such duties and receive such compensation as may be prescribed by this Charter and ordinances of the City.

Section 5. Boundaries.

The corporate limits of the City of Palmetto shall be as set forth in the document entitled "Boundaries of the City of Palmetto" which shall be on file at City Hall and which may be amended from time to time to reflect annexations and contractions of the corporate limits.

Section 6. Wards.

The City Commission shall, by ordinance, divide the City into three (3) wards to be designated numerically. The City Commission shall at any time have the power to alter or adjust the boundaries of such wards by ordinance in accordance with applicable law, by *Majority Vote of the Commission*. The City Commission shall examine the need for such alterations or adjustments to ward boundaries at least once every ten (10) years after each decennial United States Census of Population.

II. LEGISLATIVE BRANCH

Section 7. Legislative Power.

The legislative power of the City shall be solely vested in a City Commission of five elected members. The Commission shall have power to enact such ordinances, resolutions, and policies as it shall deem necessary to carry out the functions and services of the government enumerated in Section 1 of this Charter. The power of the Commission shall not extend to involvement in management of City operations, or any other power granted to the Executive Branch in Part III hereof, unless provided elsewhere in this Charter.

Section 8. Commissioners.

Three of the five Commissioners shall be elected by the *Electors* residing within the boundaries of the wards established as provided herein. The two remaining Commissioners shall be elected at large by the *Electors* of the entire City.

Section 9. Commissioner Qualifications; Assuming Office.

The three (3) ward Commissioners must each be an *Elector*. ~~and Additionally, the three (3) ward Commissioners shall each~~ have been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office being sought and have been a *Legal Resident* of the ward from which they are to be elected for a minimum of one hundred and eighty (180) consecutive days immediately prior to the last day of qualifying for election to the office sought. The two at-large Commissioners must each be an *Elector* and have been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office sought. Commissioners shall assume office on the date of the first Commission meeting following their election and shall continue to be a *Legal Resident* and *Elector* of the City during their term of office.

Section 10. Vice-Mayor.

At each *Organizational Meeting* of the Commission, ~~as referenced in Section 11 herein,~~ the Commission shall elect, by *Majority Vote of the Commission*, one Commissioner to serve as Vice-Mayor, who shall serve a term of one year. The Commission may elect a new Commissioner to serve as Vice-Mayor at any time upon an affirmative vote of four members of the Commission. If the Vice-Mayor seat becomes vacant, as defined in Section 12 below, a substitute shall be elected by *Majority Vote of the Commission*, who shall serve the remainder of that term. The Vice-Mayor shall perform the duties of and have the powers of Mayor during the temporary absence or temporary disability of the Mayor with the exception of the veto power pursuant to Section 14 below. While performing the temporary duties of acting Mayor, the Vice-Mayor shall retain the right to vote as a Commissioner.

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Section 11. Commission Meetings; Quorum; Majority Vote.

The City Commission shall hold such regular meetings and special meetings as the Mayor, Vice-Mayor (when acting as Mayor), or the City Commission, by *Majority Vote*, may call. The presence of three Commissioners shall constitute a quorum for purposes of conducting City business at all Commission meetings. At the first regular meeting ~~of the Commission after the General Election, or the second regular meeting in November in years where no General Election is held~~ January, the Commission shall hold an *Organizational Meeting* for the purposes described in this Charter. Unless limited elsewhere herein, all ordinances, resolutions, policy statements and other acts of the Commission shall be approved by *Majority Vote*.

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Section 12. Commission Members; Vacancies; Replacement.

The office of a Commissioner shall become vacant upon the Commissioner's death, permanent incapacity, resignation, permanent entry upon the office of Mayor, removal from office in any manner authorized by law, or forfeiture of the office. A vacancy shall also occur in the event no candidate seeks election for office. Forfeiture of office shall occur upon declaration by *Majority Vote of the Commission*, if a Commissioner: (a) lacks at any time, during the Commissioner's term of office, any qualification for the office as prescribed in this Charter or by law; or (b) shall be absent for more than six consecutive regular Commission meetings without the Mayor having been notified. In the absence of such notification, the Commission shall inquire into the absence of the Commissioner prior to considering any motion on forfeiture of office.

As soon as practicable upon the occurrence of a vacancy, the Commission, by *Majority Vote of the Commission*, shall choose a successor to serve the remainder of such vacant term, or until the first Commission meeting following the next *General Election*, which ever shall first occur. If the vacant term extends beyond the next *General Election*, the remainder of such term shall be filled by a person elected in such election, provided, if the vacancy occurs thirty days or fewer before the first date of qualifying for such election, the appointed successor's term shall continue to its end.

In the event no candidate seeks election to fill the vacancy, such Commission seat shall be filled by appointment by a *Majority Vote of the Commission* in the manner set forth above.

If a vacancy occurs in the office of a Commissioner of a ward, the City Commission shall appoint as successor a person who is an *Elector* and who has been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred and who has been a *Legal Resident* of the ward from which they are to be appointed for a minimum of one hundred and eighty (180) consecutive days immediately prior to the date the vacancy occurred. If a vacancy occurs in the office of an at-large Commissioner, the Commission shall appoint as successor a person who is an *Elector* and who has been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred.

Section 13. Mayor to Preside Over Commission Meetings.

The Mayor shall not be a member of the City Commission, but the Mayor shall preside at meetings of the Commission and shall have the right to take part in discussions of the Commission. The Mayor shall not have any authority to make or to second a motion, or to vote on any motion. The Mayor shall have the authority to veto any ordinance or resolution of the Commission, in accordance with the veto provisions set forth in ~~this Charter~~ Section 14 below.

Section 14. Ordinances; Mayor Veto.

Except as set forth elsewhere herein, all ordinances and resolutions enacted by the

Commission shall be enacted in accordance with the procedures required by Florida law and approval of the Commission by *Majority Vote*. Before going into effect, such ordinances and resolutions shall be submitted to the Mayor for signature. If the Mayor signs the ordinance or resolution, then it shall become effective according to its terms. If the Mayor disapproves the ordinance or resolution, the Mayor shall veto ~~it—the ordinance or resolution and~~ post any objections in writing at City Hall, ~~and The Mayor shall~~ present any objections to each member of the Commission in writing at least five (5) calendar days prior to the next regular meeting of the Commission which is at least ten (10) calendar days after the adoption of the ordinance or resolution. The Commission shall cause the Mayor's objections to be entered in full upon the record of such meeting and shall proceed at such meeting to vote upon the vetoed ordinance or resolution. If the City Commission shall pass said ordinance or resolution by four (4) or more votes, the ordinance or resolution shall become effective according to its terms. Any ordinance or resolution which is not signed or vetoed by the Mayor prior to the next regular meeting of the Commission, shall become effective according to its terms.

III. EXECUTIVE BRANCH

Section 15. Executive Power.

The executive power of the City shall be vested in the Mayor and such subordinate ~~official officers~~ as the Mayor shall appoint, as provided herein, who will faithfully execute the ordinances, resolutions, and policies of the City. The executive power shall extend to management of the day-to-day operations of the City.

Section 16. Mayor - Powers and Duties.

The Mayor shall have direct supervision over all *Appointed ~~Official Officers~~* of the City and the manner of conducting all City business, except as otherwise provided by this Charter, or by law. The Mayor shall be responsible for the proper administration of the City government and all City affairs as provided by or under this Charter or by ordinance or resolution of the City Commission. The Mayor shall:

- (a) See that all laws, provisions of this Charter and acts of the City Commission, are faithfully executed;
- (b) Sign contracts on behalf of the City pursuant to the provisions of ordinance and as authorized by such ordinances and resolutions or acts as may be enacted or approved by the City Commission; and
- (c) Have the power to bid on all property for the City at any and all judicial sales under process of law where the City is a party, up to an amount equal to the maximum amount owed to the City or to such other amount as may be authorized by the City Commission.

The Mayor shall have the power to appoint members of all boards, commissions and committees

of the City, unless otherwise provided by law or City ordinance, and subject to approval of *Majority Vote of the Commission*. No Mayoral appointment to any board, commission, or committee shall extend beyond a term of two years.

Section 17. Appointed Officers - Appointment and Removal.

The Mayor shall ~~nominate~~ appoint all *Appointed Official Officers* of the City. If such ~~official officer~~ is nominated ~~appointed~~ for a term of one (1) year ~~term~~ shorter duration, the Commission shall ~~approve~~ confirm the ~~nomination~~ appointment by *Majority Vote of the Commission*. If the term for such ~~officer~~ Appointed Officer is more than one (1) year, the Commission shall ~~approve~~ confirm the appointment by four (4) or more votes. If the person does not receive sufficient affirmative votes to be confirmed as provided herein, the person shall no longer be an Appointed Officer and Mayor shall appoint another person to serve as the Appointed Officer within sixty (60) days of the prior appointment. No term of appointment for an *Appointed Official Officer* shall extend beyond December 31st following a *General Election* for the Mayor's office. The Mayor may suspend or remove *Appointed Official Officers*, subject to approval of Majority Vote of the Commission, unless prevented by law or this Charter. The City Commission may suspend or remove *Appointed Official Officers* by its own motion adopted by four (4) or more votes of the Commission members. In all cases when less than five (5) Commissioners may be eligible to vote by law regarding the appointment, suspension or removal of an Appointed Officer, then such action may be taken by a Majority Vote of the Commission. Commissioners shall be entitled to request and receive information from all *Appointed Official Officers* as may be necessary to conduct the duties of their office.

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18. Mayor Qualifications.

The Mayor must be an *Elector* and have been a *Legal Resident* of the City for a minimum of three hundred sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office. The Mayor shall continue to be a *Legal Resident* and an *Elector* of the City during the term of office.

19. Vacancy of Mayor.

In the event that the Mayor becomes permanently unable to perform the duties of Mayor, as confirmed by *Majority Vote of the Commission*, dies, resigns, ceases to be qualified as provided by law, or is removed from office following the issuance of a removal order by the Governor, the Vice-Mayor shall become Mayor at the next regular meeting of Commission which is at least ten (10) calendar days after the vacancy in the office occurs, unless the Vice-Mayor declines the office of Mayor. In the event the Vice-Mayor declines the office of Mayor, the Commission shall elect a Mayor by *Majority Vote of the Commission* from the Commission membership. In the event that the Vice-Mayor and all of the Commissioners decline to serve as Mayor, the Commission may elect, by *Majority Vote of the Commission*, a resident to serve as Mayor until a successor is elected, with such resident being an *Elector* and having been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred. Upon becoming Mayor, that person shall not

be a City Commissioner under the provisions of this Charter. If one hundred eighty (180) days or more remain in the then-current term of the Mayor, the City Commission shall call a special election to fill the office of Mayor for the unexpired portion of the term, and such election shall be held and completed as soon as practicable following the occurrence of the vacancy.

IV. MISCELLANEOUS PROVISIONS

Section 20. Elections.

Unless otherwise provided by law or in this Charter, the election of officials under this Charter shall be held at the *General Election* during each even numbered year to fill the vacancies that will occur upon the convening of the next regularly scheduled meeting of the Commission.

Elections shall be held and the result determined in accordance with the ordinances of the City of Palmetto, or as otherwise provided by law. All voting shall be by ballot. All *Legal Residents* of the City who possess the qualifications requisite of an *Elector* at general state elections, and who have been duly registered in the manner provided by general law, shall be deemed legal voters at any election of this City.

Any City employee who qualifies to run for office of the Mayor or City Commission shall be placed on unpaid leave of absence until the day after the election provided, however, the employee may utilize any unused vacation days before being placed on the unpaid leave of absence. If the employee is unopposed for the office as of the last day to qualify for election to that office, then the employee may return to work on the day following the last day to qualify for the office.

Section 21. Terms of Office; Elections; Oath of Office.

Each Commissioner and the Mayor shall be elected for a term of four (4) years, except as may be provided in this Charter. All elected officials of the City shall hold office until their successor are elected and qualified, except as otherwise provided for under this Charter. The election of the Mayor and the Commissioners shall be staggered such that the Mayor and the At-Large Commissioners are not elected in the same *General Election* as the Ward Commissioners. The election of the Mayor and At-Large Commissioners shall be held concurrently with *General Election* for the United States Presidential Election. *General Elections* shall be held concurrent with statewide *General Elections*.

Unless otherwise provided in this Charter, each elected official shall assume the duties of office at the first regularly scheduled meeting of the Commission following the *General Election* in which the official is elected.

Each elected official, before entering upon office, shall take and subscribe to the following oath or affirmation:

I, _____, do solemnly swear/affirm that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida and the Charter and Government of the City of Palmetto; that I am qualified to hold office under the Constitution and laws of the State of Florida, and under the Charter and Ordinances of the City of Palmetto; that I will well and faithfully perform at all times the duties of the office of City Commissioner/Mayor on which I am now about to enter, so help me God.

Section 22. Recall.

The *Electors* of the City shall have the power to recall and remove from office, any elected official of the City, pursuant to the procedures prescribed by law.

Section 23. Amendment; Referendum.

A referendum shall be authorized whenever there shall be presented to the City Commission a petition signed by ten percent (10%) of the registered *Electors* of the City as of the last *General Election of the City*, proposing an amendment to this Charter, or to any ordinance or resolution of the City. Such petition shall clearly set forth in full the proposed amendment, and the amendment shall be limited to a single subject. Upon receipt of a petition meeting the requirements of this Charter and of general law, the proposed amendment shall be submitted to a vote of the *Electors* of the City at the next *General Election*. The simple majority of the votes cast at such election shall be sufficient for passage of the amendment submitted to referendum. The City Commission may amend this Charter by ordinance or referendum, as provided by general law.

Section 24. Effect Upon Existing Rights and Ordinances.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force unless amended as provided herein.

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.

All ordinances and parts of ordinances and resolutions in conflict with this Charter are hereby repealed to the extent of such conflict.

Section 25. Interpretation.

Any doubt that may arise in the construction of this Charter or any ordinance hereafter passed by the City Commission shall be construed and applied in the manner most favorable to the City. Any ordinance hereafter passed shall be consistent with this Charter and, to the extent of any inconsistency, this Charter shall control.

In the event any section, or part of a section of this Charter shall be declared illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of any other or the remainder of the sections of this Charter.

26. Charter Review.

This Charter shall be referred to a Charter Review Committee for review upon the occurrence of one of the following:

- Passage of five years from the date of the most recent amendment to this Charter ;
- Resolution of the City Commission; or
- Referendum pursuant to Section 23 of this Charter.

Section 27. Effective Date.

This Charter shall take effect ~~on November 3, 2010~~ only upon approval of a majority of electors voting on the Charter and the certification of the election results.

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CHARTER

- I. General Provisions §§ 1 - 6
- II. Legislative Branch §§ 7 - 14
- III. Executive Branch, §§15 - 19
- IV. Miscellaneous Provisions, §§ 20 – 27

I. GENERAL PROVISIONS

Section 1. Creation and powers.

The City of Palmetto in Manatee County, Florida, created under and by virtue of Chapter 11059, Laws of Florida, as Amended, shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes as set forth in Article VIII, Section 2, Florida Constitution, Chapter 166, Florida Statutes, and as otherwise provided by law.

Section 2. Headings.

The headings ascribed to each section of this charter should not be deemed a part thereof.

Section 3. Definitions.

As used herein, the following terms shall have the meaning set forth. All defined terms shall be in *italic type* when used herein:

Appointed Officer means such unelected officer of the City as shall be provided for by ordinance.

City means the City of Palmetto.

Elector means a person who is a registered voter as prescribed by general law, and is a *Legal Resident* of the City.

Legal Resident means a person who has established a permanent residence, as defined as that place where a person has his or her true, fixed and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning, within the corporate limits of the City of Palmetto. A person may have only one permanent residence at one time and, once a permanent residence is established outside of the City, it is presumed to continue until the person shows that a change has occurred.

Majority Vote means greater than fifty percent (50%) of the Commissioners present and voting.

Majority Vote of the Commission means three or more votes for or against the proposition.

Organizational Meeting means the first regular meeting of the Commission the first regular meeting in January. At such meeting the Commission may perform such business of the City as may be allowed by law including selection of Vice-Mayor and confirming Appointed Officers, as necessary, in addition to any duties required herein.

General Election means the statewide general election as defined by general law.

Section 4. Form of Government, two branches.

The government of the City shall consist of a Legislative Branch comprised of five elected Commissioners and an Executive Branch consisting of an elected Mayor and such subordinate *Appointed Officials* as shall be provided for by ordinance of the City. All elected officers shall be *Electors* of this City. All officials and officers shall perform such duties and receive such compensation as may be prescribed by this Charter and ordinances of the City.

Section 5. Boundaries.

The corporate limits of the City of Palmetto shall be as set forth in the document entitled "Boundaries of the City of Palmetto" which shall be on file at City Hall and which may be amended from time to time to reflect annexations and contractions of the corporate limits.

Section 6. Wards.

The City Commission shall, by ordinance, divide the City into three (3) wards to be designated numerically. The City Commission shall at any time have the power to alter or adjust the boundaries of such wards by ordinance in accordance with applicable law, by *Majority Vote of the Commission*. The City Commission shall examine the need for such alterations or adjustments to ward boundaries at least once every ten (10) years after each decennial United States Census of Population.

II. LEGISLATIVE BRANCH

Section 7. Legislative Power.

The legislative power of the City shall be solely vested in a City Commission of five elected members. The Commission shall have power to enact such ordinances, resolutions, and policies as it shall deem necessary to carry out the functions and services of the government enumerated in Section 1 of this Charter. The power of the Commission shall not extend to involvement in management of City operations, or any other power granted to the Executive Branch in Part III hereof, unless provided elsewhere in this Charter.

Section 8. Commissioners.

Three of the five Commissioners shall be elected by the *Electors* residing within the boundaries of the wards established as provided herein. The two remaining Commissioners shall be elected at large by the *Electors* of the entire City.

Section 9. Commissioner Qualifications; Assuming Office.

The three (3) ward Commissioners must each be an *Elector*. Additionally, the three (3) ward Commissioners shall each have been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office being sought and have been a *Legal Resident* of the ward from which they are to be elected for a minimum of one hundred and eighty (180) consecutive days immediately prior to the last day of qualifying for election to the office sought. The two at-large Commissioners must each be an *Elector* and have been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office sought. Commissioners shall assume office on the date of the first Commission meeting following their election and shall continue to be a *Legal Resident* and *Elector* of the City during their term of office.

Section 10. Vice-Mayor.

At each *Organizational Meeting* of the Commission, the Commission shall elect, by *Majority Vote of the Commission*, one Commissioner to serve as Vice-Mayor, who shall serve a term of one year. The Commission may elect a new Commissioner to serve as Vice-Mayor at any time upon an affirmative vote of four members of the Commission. If the Vice-Mayor seat becomes vacant, as defined in Section 12 below, a substitute shall be elected by *Majority Vote of the Commission*, who shall serve the remainder of that term. The Vice-Mayor shall perform the duties of and have the powers of Mayor during the temporary absence or temporary disability of the Mayor with the exception of the veto power pursuant to Section 14 below. While performing the temporary duties of acting Mayor, the Vice-Mayor shall retain the right to vote as a Commissioner.

Section 11. Commission Meetings; Quorum; Majority Vote.

The City Commission shall hold such regular meetings and special meetings as the Mayor, Vice-Mayor (when acting as Mayor), or the City Commission, by *Majority Vote*, may call. The presence of three Commissioners shall constitute a quorum for purposes of conducting City business at all Commission meetings. At the first regular meeting in January, the Commission shall hold an *Organizational Meeting* for the purposes described in this Charter. Unless limited elsewhere herein, all ordinances, resolutions, policy statements and other acts of the Commission shall be approved by *Majority Vote*.

Section 12. Commission Members; Vacancies; Replacement.

The office of a Commissioner shall become vacant upon the Commissioner's death, permanent incapacity, resignation, permanent entry upon the office of Mayor, removal from office in any manner authorized by law, or forfeiture of the office. A vacancy shall also occur in the event no candidate seeks election for office. Forfeiture of office shall occur upon declaration by *Majority Vote of the Commission*, if a Commissioner: (a) lacks at any time, during the Commissioner's term of office, any qualification for the office as prescribed in this Charter or by law; or (b) shall be absent for more than six consecutive regular Commission meetings without the Mayor having been notified. In the absence of such notification, the Commission shall inquire into the absence of the Commissioner prior to considering any motion on forfeiture of office.

As soon as practicable upon the occurrence of a vacancy, the Commission, by *Majority Vote of the Commission*, shall choose a successor to serve the remainder of such vacant term, or until the first Commission meeting following the next *General Election*, which ever shall first occur. If the vacant term extends beyond the next *General Election*, the remainder of such term shall be filled by a person elected in such election, provided, if the vacancy occurs thirty days or fewer before the first date of qualifying for such election, the appointed successor's term shall continue to its end.

In the event no candidate seeks election to fill the vacancy, such Commission seat shall be filled by appointment by a *Majority Vote of the Commission* in the manner set forth above.

If a vacancy occurs in the office of a Commissioner of a ward, the City Commission shall appoint as successor a person who is an *Elector* and who has been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred and who has been a *Legal Resident* of the ward from which they are to be appointed for a minimum of one hundred and eighty (180) consecutive days immediately prior to the date the vacancy occurred. If a vacancy occurs in the office of an at-large Commissioner, the Commission shall appoint as successor a person who is an *Elector* and who has been a *Legal Resident* of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred.

Section 13. Mayor to Preside Over Commission Meetings.

The Mayor shall not be a member of the City Commission, but the Mayor shall preside at meetings of the Commission and shall have the right to take part in discussions of the Commission. The Mayor shall not have any authority to make or to second a motion, or to vote on any motion. The Mayor shall have the authority to veto any ordinance or resolution of the Commission, in accordance with the veto provisions set forth in Section 14 below.

Section 14. Ordinances; Mayor Veto.

Except as set forth elsewhere herein, all ordinances and resolutions enacted by the

Commission shall be enacted in accordance with the procedures required by Florida law and approval of the Commission by *Majority Vote*. Before going into effect, such ordinances and resolutions shall be submitted to the Mayor for signature. If the Mayor signs the ordinance or resolution, then it shall become effective according to its terms. If the Mayor disapproves the ordinance or resolution, the Mayor shall veto the ordinance or resolution and post any objections in writing at City Hall. The Mayor shall present any objections to each member of the Commission in writing at least five (5) calendar days prior to the next regular meeting of the Commission which is at least ten (10) calendar days after the adoption of the ordinance or resolution. The Commission shall cause the Mayor's objections to be entered in full upon the record of such meeting and shall proceed at such meeting to vote upon the vetoed ordinance or resolution. If the City Commission shall pass said ordinance or resolution by four (4) or more votes, the ordinance or resolution shall become effective according to its terms. Any ordinance or resolution which is not signed or vetoed by the Mayor prior to the next regular meeting of the Commission, shall become effective according to its terms.

III. EXECUTIVE BRANCH

Section 15. Executive Power.

The executive power of the City shall be vested in the Mayor and such subordinate Officers as the Mayor shall appoint, as provided herein, who will faithfully execute the ordinances, resolutions, and policies of the City. The executive power shall extend to management of the day-to-day operations of the City.

Section 16. Mayor - Powers and Duties.

The Mayor shall have direct supervision over all *Appointed Officers* of the City and the manner of conducting all City business, except as otherwise provided by this Charter, or by law. The Mayor shall be responsible for the proper administration of the City government and all City affairs as provided by or under this Charter or by ordinance or resolution of the City Commission. The Mayor shall:

- (a) See that all laws, provisions of this Charter and acts of the City Commission, are faithfully executed;
- (b) Sign contracts on behalf of the City pursuant to the provisions of ordinance and as authorized by such ordinances and resolutions or acts as may be enacted or approved by the City Commission; and
- (c) Have the power to bid on all property for the City at any and all judicial sales under process of law where the City is a party, up to an amount equal to the maximum amount owed to the City or to such other amount as may be authorized by the City Commission.

The Mayor shall have the power to appoint members of all boards, commissions and committees of the City, unless otherwise provided by law or City ordinance, and subject to approval of *Majority Vote of the Commission*. No Mayoral appointment to any board, commission, or committee shall extend beyond a term of two years.

Section 17. Appointed Officers - Appointment and Removal.

The Mayor shall appoint all *Appointed Officers* of the City. If such officer is appointed for a term of one (1) year or shorter duration, the Commission shall confirm the appointment by *Majority Vote of the Commission*. If the term for such *Appointed Officer* is more than one (1) year, the Commission shall confirm the appointment by four (4) or more votes. If the person does not receive sufficient affirmative votes to be confirmed as provided herein, the person shall no longer be an Appointed Officer and Mayor shall appoint another person to serve as the Appointed Officer within sixty (60) days of the prior appointment. A person who is not confirmed by the Commission may not be reappointed to that position without approval of the Commission. No term of appointment for an *Appointed Officer* shall extend beyond the date of the first Organizational Meeting following a *General Election* for the Mayor's office. The Mayor may suspend or remove *Appointed Officers*, subject to approval of *Majority Vote of the Commission*, unless prevented by law or this Charter. The City Commission may suspend or remove *Appointed Officers* by its own motion adopted by four (4) or more votes of the Commission members. In all cases when less than five (5) Commissioners may be eligible to vote by law regarding the appointment, suspension or removal of an *Appointed Officer*, then such action may be taken by a Majority Vote of the Commission. Commissioners shall be entitled to request and receive information from all *Appointed Officers* as may be necessary to conduct the duties of their office.

18. Mayor Qualifications.

The Mayor must be an *Elector* and have been a *Legal Resident* of the City for a minimum of three hundred sixty-five (365) consecutive days immediately prior to the last day of qualifying for election to the office. The Mayor shall continue to be a *Legal Resident* and an *Elector* of the City during the term of office.

19. Vacancy of Mayor.

In the event that the Mayor becomes permanently unable to perform the duties of Mayor, as confirmed by *Majority Vote of the Commission*, dies, resigns, ceases to be qualified as provided by law, or is removed from office following the issuance of a removal order by the Governor, the Vice-Mayor shall become Mayor at the next regular meeting of Commission which is at least ten (10) calendar days after the vacancy in the office occurs, unless the Vice-Mayor declines the office of Mayor. In the event the Vice-Mayor declines the office of Mayor, the Commission shall elect a Mayor by *Majority Vote of the Commission* from the Commission membership. In the event that the Vice-Mayor and all of the Commissioners decline to serve as Mayor, the Commission may elect, by *Majority Vote of the Commission*, a resident to serve as Mayor until a successor is elected, with such resident being an *Elector* and having been a *Legal*

Resident of the City for a minimum of three hundred and sixty-five (365) consecutive days immediately prior to the date the vacancy occurred. Upon becoming Mayor, that person shall not be a City Commissioner under the provisions of this Charter. If one hundred eighty (180) days or more remain in the then-current term of the Mayor, the City Commission shall call a special election to fill the office of Mayor for the unexpired portion of the term, and such election shall be held and completed as soon as practicable following the occurrence of the vacancy.

IV. MISCELLANEOUS PROVISIONS

Section 20. Elections.

Unless otherwise provided by law or in this Charter, the election of officials under this Charter shall be held at the *General Election* during each even numbered year to fill the vacancies that will occur upon the convening of the next regularly scheduled meeting of the Commission.

Elections shall be held and the result determined in accordance with the ordinances of the City of Palmetto, or as otherwise provided by law. All voting shall be by ballot. All *Legal Residents* of the City who possess the qualifications requisite of an *Elector* at general state elections, and who have been duly registered in the manner provided by general law, shall be deemed legal voters at any election of this City.

Any City employee who qualifies to run for office of the Mayor or City Commission shall be placed on unpaid leave of absence until the day after the election provided, however, the employee may utilize any unused vacation days before being placed on the unpaid leave of absence. If the employee is unopposed for the office as of the last day to qualify for election to that office, then the employee may return to work on the day following the last day to qualify for the office.

Section 21. Terms of Office; Elections; Oath of Office.

Each Commissioner and the Mayor shall be elected for a term of four (4) years, except as may be provided in this Charter. All elected officials of the City shall hold office until their successor are elected and qualified, except as otherwise provided for under this Charter. The election of the Mayor and the Commissioners shall be staggered such that the Mayor and the At-Large Commissioners are not elected in the same *General Election* as the Ward Commissioners. The election of the Mayor and At-Large Commissioners shall be held concurrently with *General Election* for the United States Presidential Election. *General Elections* shall be held concurrent with statewide *General Elections*.

Unless otherwise provided in this Charter, each elected official shall assume the duties of office at the first regularly scheduled meeting of the Commission following the *General Election* in which the official is elected.

Each elected official, before entering upon office, shall take and subscribe to the following oath or affirmation:

I, _____, do solemnly swear/affirm that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida and the Charter and Government of the City of Palmetto; that I am qualified to hold office under the Constitution and laws of the State of Florida, and under the Charter and Ordinances of the City of Palmetto; that I will well and faithfully perform at all times the duties of the office of City Commissioner/Mayor on which I am now about to enter, so help me God.

Section 22. Recall.

The *Electors* of the City shall have the power to recall and remove from office, any elected officials of the City, pursuant to the procedures prescribed by law.

Section 23. Amendment; Referendum.

A referendum shall be authorized whenever there shall be presented to the City Commission a petition signed by ten percent (10%) of the registered *Electors* of the City as of the last *General Election of the City*, proposing an amendment to this Charter, or to any ordinance or resolution of the City. Such petition shall clearly set forth in full the proposed amendment, and the amendment shall be limited to a single subject. Upon receipt of a petition meeting the requirements of this Charter and of general law, the proposed amendment shall be submitted to a vote of the *Electors* of the City at the next *General Election*. The simple majority of the votes cast at such election shall be sufficient for passage of the amendment submitted to referendum. The City Commission may amend this Charter by ordinance or referendum, as provided by general law.

Section 24. Effect Upon Existing Rights and Ordinances.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force unless amended as provided herein.

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.

All ordinances and parts of ordinances and resolutions in conflict with this Charter are hereby repealed to the extent of such conflict.

Section 25. Interpretation.

Any doubt that may arise in the construction of this Charter or any ordinance hereafter passed by the City Commission shall be construed and applied in the manner most favorable to the City. Any ordinance hereafter passed shall be consistent with this Charter and, to the extent of any inconsistency, this Charter shall control.

In the event any section, or part of a section of this Charter shall be declared illegal or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of any other or the remainder of the sections of this Charter.

26. Charter Review.

This Charter shall be referred to a Charter Review Committee for review upon the occurrence of one of the following:

- Passage of five years from the date of the most recent amendment to this Charter ;
- Resolution of the City Commission; or
- Referendum pursuant to Section 23 of this Charter.

Section 27. Effective Date.

This Charter shall take effect only upon approval of a majority of electors voting on the Charter and the certification of the election results.