

Minutes
Charter Review Committee
May 31, 2018
1:00 p.m.
City of Madeira Beach Commission Chamber
300 Municipal Drive Madeira Beach, FL 33708

The Charter Review Committee meeting was called to order by Chair Doreen Moore at approximately 1:08 p.m.

Staff members present: Clara VanBlargan, City Clerk

1. Roll Call

The City Clerk called the roll and the following members were present:

- Paul Tilka
- June Mohns
- Doreen Moore
- Grace Critelli
- Gerri Clyatt

2. Information from City Clerk

The City Clerk distributed a copy of the Charter working document that included the changes made at the April 26, 2018 meeting.

3. Review of Charter for Recommended Changes

Chair Doreen Moore asked the City Clerk what direction was given by the Board of Commissioners at the May 22nd workshop on how it would like the Charter Review Committee to proceed in reviewing the Charter. The City Clerk said the Commission would like the Committee to review the Charter to the end but to start with the sections that are applicable to the operations of the City and to come up with about four questions to put on the ballot.

The Committee reviewed the City Charter and discussed changes to be made. The City Clerk said she would convert the Charter to a Word document, make the recommended changes with strikeouts and underlines and send it to all the members before the next Committee meeting.

[Attached is the working document showing changes to date.]

4. Meeting Schedule

The Committee scheduled its next meeting for June 20, 2018 at 1:00 p.m.

There being no further discussion, the meeting was adjourned.


Doreen Moore, Chair


Clara VanBlargan, City Clerk

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**CHARTER
CITY OF MADEIRA BEACH**

ARTICLE I. GENERAL

Section 1.1 Creation and powers.

The inhabitants of the City of Madeira Beach, Florida within the corporate limits as now established or as hereinafter established in the manner provided by law, shall continue to be a municipal body politic and corporate in perpetuity under the name "City of Madeira Beach, Florida" and, under that name, 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 except as otherwise provided. by law.

(Ord. No. 994, §§ 1-6, 12-14-2004/3-8-2005)

Editor's note-Ord. No. 994, §§ 1-6, adopted December 14, 2004, amended § 1.1 in its entirety to read as herein set out. Formerly, § 1.1 pertained to the name of city and derived from original codification.

Section 1.2 Extraterritorial powers.

In addition to the powers enumerated herein, the City of Madeira Beach, Florida, shall be vested with all the powers granted by General or Special Acts of Legislature of the State of Florida, the Constitution of the State of Florida and as otherwise provided by law.

(Ord. No. 994, §§ 1-6, 12-14-2004/3-8-2005)

Editor's note-Ord. No. 994, §§ 1-6, adopted December 14, 2004 amended § 1.2 in its entirety to read as herein set out. Formerly, § 1.2 pertained to territorial limits and derived from Oni. No. 874, adopted May 20, 1997. Provisions relating to territorial limits can be found at § 1.5.

Section 1.3 Construction.

The powers of the City of Madeira Beach, Florida, under this Charter shall be construed liberally in favor of the City of Madeira Beach, Florida, limited only by the Constitution, the Florida Statutes, and specific limitations contained herein and the specific mention hereafter of a particular power in the Charter shall not be construed as limiting in any way the general powers stated in this Article.

(Ord. No. 994, §§ 1--6, 12-14-2004/3-8-2005)

Editor's note-Ord. No. 994, §§ 1-6, adopted December 14, 2004, amended § 1.3 in

its entirety to read as herein set out. Formerly, § 1.3 pertained to secession of rights and liabilities and derived from original codification.

Section 1.4 Open meetings.

All meetings of the Board of Commissioners shall be open to the public as prescribed by State Law, and the rules of the Commission shall provide that citizens of the City of Madeira Beach, Florida, shall have a reasonable opportunity to be heard at any such Commission meeting in regard to any matter. All meetings of appointed boards and commissions shall also be open to the public as prescribed by law.

(Ord. No. 994, §§ 1--6, 12-14-2004/3-8-2005)

Editor's note—Ord. No. 994, §§ 1-6, adopted December 14, 2004, amended § 1.4 in its entirety to read as herein set out. Formerly, § 1.4 pertained to general powers and derived from original codification.

Section 1.5 Description of corporate limits. The boundaries of the City of Madeira Beach, Florida, shall be as follows:

From a point of Beginning at the intersection of the centerline of State Road 699 and the centerline of 155th Avenue run northeasterly along the centerline of 155th Avenue and an extension thereof to an intersection with the centerline of the right-of-way of the INTRA COASTAL Waterway; thence southeasterly along the centerline of the right-of-way of the INTRA COASTAL Waterway to an intersection with the southwesterly extension of the north property line of Lot 1 of the Replat of Blocks 3 and 4 Edgewater Estates, Unit 12, as recorded in Plat Book 48, page 29, in the Public Records of Pinellas County, Florida; thence northeasterly along the extension of and the north line of the aforesaid Lot 1 to a point, said point being located south 53°37'25" west, a distance of 140.00 feet from the northeasterly corner of and along the north line of aforesaid Lot 1 of the Replat of Blocks 3 and 4 Edgewater Estates, Unit 12, thence north 36°22'35" west, a distance of 300.00 feet to a point; thence north 53°37'25" east a distance of 140.00 feet to a point, thence south 36°22'35" east a distance of 300.00 feet to a point, said point being the northeasterly corner of aforesaid Lot 1; thence northeasterly along the extension of the north line of aforesaid Lot 1 to an intersection with the centerline of Duhme Road; thence south 36°22'35" east along the centerline of Duhme Road to a point on the said centerline which is 69.30 feet north 36°23'35" west and 50.56 feet south 45°86'00" west of the intersection of the easterly right-of-way of Duhme Road and the north right-of-way line of Edgewater Boulevard; thence north 45°06'00" east 317.56 feet; thence south 87°11'49" east 180 feet; thence south 16°41'46" east 79.60 feet; thence north 42°30'0"; thence south 48°15'0' to the northwest corner of Lot 7 Edgewater Estates Unit 3; thence along northerly line of said Lot 7 south 48°11'4" (s); thence southwesterly along the easterly line of Lots 7, 8, 9, and 10 to the southeast corner of Lot 10 Edgewater Estates, Unit 3 as recorded in Plat Book 26, page 10, in the Public Records of Pinellas County, Florida, to an intersection with the north right-of-way line of Edgewater Boulevard, thence south 02°48'11" west 30.0 feet to an intersection with the centerline of Edgewater Boulevard; thence south

87°11'49" east 64.50 feet to an intersection with the centerline of State Road 699; thence north 41°58'57" east 111.80 feet to a point, which is south 41°58'57" west 1399.97 feet and north 00°34'24" east 139.34 feet from the center of Section 3, Township 31 South, Range 15 East; thence south 48°01'03" east 50 feet to the southerly right-of-way line of State Road 666. thence south 55°03'22" east 847.45 feet; then e south 31°56'38" west to an inter- section with the centerline of the right-of-way of the INTRA COASTAL Waterway in Boca Ciega Bay; thence southeasterly and northeasterly along the said centerline of the INTRA COASTAL Waterway to an intersection with the northeasterly extension of the John's Pass Channel, said point also being on the northern boundary of the City Limits of Treasure Island and the aforesaid extension of John's Pass Channel to a point in the water of the Gulf of Mexico, and point being 3 miles west of the shoreline of City of Madeira Beach, Florida; thence north easterly parallel to the aforesaid shoreline to a point of intersection with the westerly extension of the centerline of 155th Avenue; thence northeasterly along the westerly extension of the centerline of 155th Avenue to the Point of Beginning lying within Town- ship 31 South, Range 15 East, Pinellas County, Florida.

(Ord. No. 994, §§ 1-6, 12-14-2004/3-8-2005)

Editor's note-Ord. No. 994, §§ 1-6, adopted December 14, 2004 amended § 1.5 in its entirety to read as herein set, out Formerly, § 1.5 pertained to construction and derived from original codification. Provisions relating to construction can be found at§ 1.3.

Section 1.6 Inter-governmental relations.

The City of Madeira Beach, Florida, may exercise any of its powers to perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or with the United States or any agency thereof.

(Ord. No. 994, §§ 1-6, 12-14-2004/3-8-2005)

Section 1.7 Limitation on exercise of powers.

~~The sole and exclusive limitation on the exercise of powers of the City shall be that prior to the sale of any real property possessed by the City or prior to a conveyance by whatever means of an interest in lands possessed by the City which conveyance is for a term to exceed ten (10) years, the issue shall be submitted to a referendum vote of the electors of the City, at an election to be called by the Board of Commissioners of said City, and a majority of the votes cast shall be in favor thereof and then and only then may the property be conveyed; provided, however, that the City shall have the power to convey public utility easements without submitting the same to a referendum vote of the electors of the City.~~

There are two exclusive limitations on the exercise of powers of the City that shall be submitted to a referendum vote of the electors of the City, at an election to be called by the Board of Commissioners of said City, and a majority of the votes cast shall be in favor thereof:

(1) Prior to the sale of any real property possessed by the City or prior to a conveyance by whatever means of an interest in lands possessed by the City which conveyance is for a term to exceed ten (10) years.

(2) Prior to issuance of a planned development (PD) permit for any tract of land exceeding 4,000 square feet in area.

Only after a favorable referendum vote may the property be conveyed, or a PD permit issued; provided, however, that the City shall have the power to convey public utility easements without submitting the same to a referendum vote of the electors of the City.

Decisions made by the Board of Commissioners under this section shall be subject to the review by Courts of competent jurisdiction within this State.

Section 1.8. Use of power of eminent domain.

No private property shall be taken by the City of Madeira Beach, except for a public purpose and with full compensation therefore paid to each owner or secured by deposit in the registry of the court and available to the owner. Private economic development shall not be deemed to constitute a public purpose for which private property may be taken by the City of Madeira Beach through the power of eminent domain.

(Ord. No. 1083, § 1, 5-23-2006/11-7-2006)

ARTICLE II. FORM OF GOVERNMENT

Section 2.1 Form of government.

Form of government of the City of Madeira Beach provided for in this Act shall be the commission-manager plan. The Board of Commissioners shall consist of five (5) members who shall be electors of said City and elected as hereinafter prescribed.

Section 2.2 Board of Commissioners created; qualifications; term of office; and vacancies.

- A. *Board Created.* There shall be a Board of Commissioners with all legislative powers of the City of Madeira Beach, Florida, vested therein, composed of Commission members occupying districts numbered one (1) through (4), and a Mayor. The Board of Commissioners, including the Mayor, shall be elected at large by the qualified voters of the City of Madeira Beach, Florida.
- B. *Qualifications and Term of Office.* The Commission members shall have been qualified electors and residents of the City of Madeira Beach, Florida, for two (2) years immediately prior to their qualifying for election, and in addition, each

District-Commissioner shall be a resident of said district which he/she declares himself/herself to be a candidate for a period of six (6) months prior to the date of said application. The term of office for all District Commissioners shall be for a period of two years. The Mayor may reside at the time of his/her election anywhere within the City of Madeira Beach, Florida; and the term of office for the Mayor shall be for a period of three (3) years. The terms of all members of the Commission, including the Mayor, will begin at the Board of Commissioners ~~first regular~~ meeting to be held on or before the last day of March at a special meeting following the election, and shall continue until their successor has been duly elected and installed under this Charter. All vacancies occurring in the Commission between elections shall be filled in accordance with Section 2.2(E) of this Charter.

- C. Consecutive Term Limit. The Mayor and District Commissioners shall serve no more than three (3) consecutive regular terms and shall not seek re-election for a period of two (2) years.

~~CD.~~ *Vacancies, forfeiture of office; filling or vacancies.*

1. *Vacancies, forfeiture of office; filling of vacancies.*

Vacancies. The office of a Com shall become vacant upon his/her death, resignation, removal from office in any matter authorized by law or forfeiture of his/her office.

2. *Forfeiture of Office.* A Commissioner shall forfeit his/her office if he:

(a) Lacks at any time during his/her term of office any qualifications for the office prescribed by this Charter or by law, ~~except that any District Commissioner who changes residence from one district to another during the course of his/her term of office or if the district boundaries are redrawn during the term of office, the District Commissioner shall be permitted to serve out his/her term,~~

(b) Violates any expressed prohibition of this Charter,

(c) Is convicted of a ~~felony or a misdemeanor~~ crime involving including moral turpitude, or

(d) Found guilty of violating the Sunshine Law or Ethics Law by the Florida Commission on Ethics or the State Attorney's Office.

~~(d)(e)~~ Fails to attend ~~four~~ three consecutive regular meetings of the Board of Commissioners without being excused by the Board of Commissioners.

(f) Fails to maintain residency and voter registration requirements as stated in the City Charter.

3. Filling of Vacancies. In the event of a vacancy in the office of the Mayor-~~Commissioner~~, the Vice-Mayor shall assume the office of Mayor-~~Commissioner~~. A vacancy of the office of District Commissioner or a vacancy occurring in the office of Mayor-~~Commissioner~~ because the Vice-Mayor declines to accept the office of Mayor-~~Commissioner~~, shall be filled within 30 days of its occurrence by a majority vote of the remaining members of the Board of Commissioners. If a District Commissioner is nominated to the office of Mayor-~~Commissioner~~ because of a vacancy in the office of Mayor-~~Commissioner~~, the person so nominated shall not be required to resign as District Commissioner prior to being selected as Mayor-~~Commissioner~~. Any person selected to fill such a vacancy shall possess all the qualifications required of a Commission member by this charter and by law. Any person selected for the office of Mayor-~~Commissioner~~ shall serve until the next regular election of the City, at which time a general election for the office of Mayor-~~Commissioner~~ for a complete term of office will be held. The person selected to fill a vacancy in the office of District Commissioner shall serve the unexpired term of the office.

Notwithstanding the requirements of ARTICLE VII, Section 7.3 (e) that a quorum of the Board of Commissioners consists of three (3) members, if at any time the membership of the Board of Commissioners is reduced to less than three (3), the remaining members may convene under the provisions of this section to appoint additional members to raise the membership to three (3).

(Ord. No. 727, 10-4-1988/11-9-1988; Ord. No. 826, 12-6-1994; Ord. No. 829, 12-6-1994/3-11-1997; Ord. No. 890, 1-20-1998/3-10-1998; Ord. No. 996, 12-14-2004/3-8-2005)

Section 2.3 Judge of qualifications forfeiture and action.

The Board of Commissioners shall be the judge of the ~~election and the qualifications of its members and of the~~ grounds for forfeiture of ~~their~~ office for its members and for the purpose shall have power to subpoena witnesses, administer oaths and require production of evidence. A commission member charged by two (2) or more commissioners with conduct constituting grounds for forfeiture of his/her office shall, upon request within five (5) business days of written notification of the charge, be entitled to a public hearing. ~~on-demand and a~~ Notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Board of Commissioners under this section shall be subject to review by Courts of competent jurisdiction within this State.

ARTICLE III. ELECTIONS*

Section 3.1 Nonpartisan elections.

*State law reference-Florida Election Code, Florida Statutes chs. 97-106.

All qualifications and elections for the Offices of the Board of Commissioners shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee or any nomination petition or ballot.

(Ord. No. 998, 12-14-2004/3-8-2005)

Section 3.2 Election district.

- A. The Board of Commissioners shall divide the territory lying within the municipal boundaries of the City of Madeira Beach, Florida, into four (4) areas to be known as districts. These four (4) districts shall be created by the Board of Commissioners by dividing the territory lying within the municipal boundaries of the City of Madeira Beach, Florida, so that each district shall contain, as nearly as possible, the same number of electors. The district shall be numbered from one (1) through four (4), in order, from South to North, with District No. 1, being that district lying most southerly with the municipal boundaries. Upon completion of the division of the municipal territory into four (4) districts, the Board of Commissioners shall forthwith prepare a map setting forth the four (4) districts, showing their numbers and boundaries, and file same with the City Clerk.
- B. Within one year, following the United States census, ~~The Board of Commissioners shall, in the year 1978,~~ by Ordinance either change the existing boundaries of said districts as it may deem expedient or to reaffirm the old district boundaries so that each district shall contain as nearly as possible the same number of electors equal populations and not discriminating on the basis of race or ethnicity; and similar ~~Ordinances either changing or affirming the said district boundary lines for this purpose shall be passed every four years thereafter.~~ If, prior to the passage of any Ordinance or Ordinances impacted by development and applicable to district boundary lines and made mandatory by this section, it should appear to the Board of Commissioners that there is an imbalance of electors population exceeding fifteen (15) percent of the said district, or such imbalance that in their judgment and opinion, the Board of Commissioners shall, by a new Ordinance within one year following adoption of the Ordinance or Ordinances changing the boundaries of said districts ~~should be passed in order~~ to equalize as nearly as possible the number of electors equal populations and not discriminating on the basis of race or ethnicity in each district., ~~by Ordinance, change the boundaries of said district for such purposes.~~ No change in districts shall be made within six (6) months next preceding an election in the City.

(Ord. No. 282, 2-3-1966; Ord. No. 441, 12-10-1974; Ord. No. 592, 9-16-80; Ord. No. 691, 9-16-1986; Ord. No. 743, 2-20-1990; Ord. No. 816, 5-17-1994; Ord. No. 981, 7-8-2003; Ord. No. 998, 12-14-2004/3-8-2005; Ord. No. 1114, § 2, 8-14-2007; Ord. No. 1128, 6-10-2008; Ord. No. 2014-11, § 4, 10-14-2014)

Editor's Note- Ord. No. 998, adopted December 14, 2004, renumbered § 3.1 as § 3.2. The historical notation has been preserved for reference purposes.

Section 3.3 Nomination of Board of Commissioners.

- A. Filing. Every person who shall desire to become a candidate for nomination under the provisions of this Charter to the office of Mayor and District-Commissioner, shall qualify to become such candidate by filing with the **eCity eClerk** not more than 90 days not less than 60 days before the date of the election. Under no circumstances shall the City Clerk accept any nomination petitions or filing fees after the close of the filing period as stated herein. His/her application is to have his/her name printed upon the ballot as a candidate for nomination to the office for which he/she aspires, in which application, he/she shall declare from the district he/she is a candidate or so declare if he/she is a candidate for Mayor. All applications shall be accompanied by an affidavit the candidate is an elector and a resident of the City of Madeira Beach, Florida, for two (2) years immediately prior to the date of said application, and has been a resident of said district for which he/she declares himself/herself to be a candidate for a period of six (6) months prior to the date of said application. With said application shall be filed a petition which shall indicate prominently the district from which the Petitioner is a candidate, or if he/she be a candidate for Mayor.
- B. District Commissioners. Should any District Commissioner desire to become a candidate for the office of Mayor, said District Commissioner shall resign his/her office of District Commissioner not less than sixty (60) days before the election in which he/she desires to become a candidate for Mayor. Provided, however, such compulsory resignation shall not apply to a District Commissioner whose term as commissioner expires at or before the time he/she would take office as Mayor, if elected. The resignation shall be filed in the office of the City Clerk. The vacancy created by such resignation shall be filled as provided in 2.2(C) of said Charter.
- C. Petitions, Candidates for the office of Mayor and District Commissioners shall be nominated by petition. Mayoral candidates are nominated at large, and District Commissioners are nominated by the district in which he/she resides. Each candidate may be nominated for election by petition forms signed by qualified voters of the City of Madeira Beach, Florida, not less in number than one hundred (100). Each signature shall be executed in ink and the form shall indicate the place of the petitioner's residence. All petition forms shall contain the name of the candidate and the office and district number for which the candidate is being nominated.

In lieu of 100 a nomination petitions containing ~~zone-hundred-(100)~~ qualified electors' signatures, a qualifying fee of (\$50.00) and 50 a nomination petitions containing ~~fifty-(50)~~ qualified electors' signatures shall be required. Mayoral candidates shall have his/her petitions signed by electors at large in the boundaries

of the City limits and District-Commissioner candidates shall have his/her petitions signed by electors in the districts in which he/she resides.

~~In the case of a candidate for District Commissioner, his/her petitions shall be signed by electors within his/her district.~~

No candidate may seek election to more than one elective City of Madeira Beach, Florida, office in any given election.

(Ord. No. 851, 1-2-1996; Ord. No. 915, 9-21-99; Ord. No. 999, 12-9-03; Ord. No. 1032, § 1, 11-30-2004; Ord. No. 1059, § 1, 11-8-2005; Ord. No. 1120, § 1, 10-23-2007/3-11-2008)

Section 3.4 Manner of holding elections.

- A. All elections shall be held in the city on the second Tuesday in March of each year for the purpose of electing successors to elective offices. Elections for Commissioners of Districts One (1) and Two (2) shall be held in even numbered years. Elections for Commissioners of Districts Three (3) and Four (4) shall be held in odd numbered years. The term for the Commissioners of Districts shall be for two (2) years. The term for Mayor-Commissioner shall be for three (3) years allowing the seat to alternate with the Commissioners of Districts. ~~The effective date of the first election will be on the March 14, 2000 and every three years thereafter (next election being March 11, 2003).~~

- B. The Board of Commissioners ~~of the City of Madeira Beach~~ shall, by Ordinance, prescribe the manner of holding ~~both general and~~ special elections not inconsistent with the provisions hereof and said Board of Commissioners shall also by Ordinance, provide such polling place or places as they deem expedient.

The Board of Commissioners shall designate a canvassing board, consisting of the City Clerk or a designee along with two Commissioners whose term of office is not expiring or the Pinellas County Canvassing Board, for all elections held under this Charter. The Canvassing Board shall certify all tests of election equipment and shall canvass absentee as well as provisional ballots. Following certification, ~~The~~ actions of the Canvassing Board shall be reported to the Board of Commissioners at their next a special meeting following the election, and at such meeting. ~~The Board of Commissioners shall meet following the certification for the purpose of declaring~~ the results of said election.

- C. The provisions of the general laws of the State of Florida pertaining to state and municipal elections relating to the qualifications of electors, registrations, transfer of electors from one district to another, manner of voting, duties of election officers, canvassing of returns and all other particulars in respect to the management of election, except as otherwise provided in this Charter and the Ordinances adopted hereunder pertaining to elections shall so far as the same

may be applicable, govern all City elections.

- D. No informalities in conducting City elections shall invalidate the same, if they have been conducted fairly and in substantial conformity to the requirements of this Charter.
- E. At the election provided for in paragraph (A) above, the names of all candidates qualifying as provided for in, Section 3.2 shall be placed upon the ballot in the respective districts in which said candidates are qualified or for the office of Mayor-~~Commissioner~~ if each candidate has qualified for such office. At said election such elector of the City may vote in each contest appearing upon such ballot, that is to say, a voter may vote for one candidate for a Mayor-~~Commissioner~~ if such contest appears upon the ballot and for one candidate for each District Commissioner in each contest that appears upon the ballot. In the event that no candidate for each office shall secure a majority of the votes cast in each contest for office, then and in that event, another election shall be held on the second Tuesday in April at which election only the names of the two candidates having the highest number of votes in the first election in which no candidate received a majority of the votes cast in each contest shall be placed upon the ballot. At the second election provided for herein, electors may vote for each contest appearing on the ballot. In the event two candidates for each office should receive an equal number of votes for the same office, in the second election provided for above, another election shall be called and held on the fourth Tuesday following such election at which election the names of the candidates receiving the same number of votes shall again be placed upon the ballot. In the event two or more candidates for any office are tied for the highest number of votes and should receive an equal number of votes for the same office in the first election provided for above, then at the second election the names of the high candidates receiving the same number of votes shall again be placed upon the ballot, and so on in like fashion until one of the candidates receives a majority of the number of votes cast. Provided, however, that if one candidate received the highest number of votes, but is short of a majority and there are two or more candidates who are tied for the next highest number of votes than those tied shall be decided by lot under the direction of the incumbent Board of Commissioners, as to which one of the tied candidates shall run against the one receiving the highest number in the said second election.
- F. Notice of the holding of such elections shall be given by publication in a newspaper having general circulation throughout the City of a notice of the calling and holding of such election, which notice shall give the time and place where such elections shall be held and the names on the ballots; and notice shall be published one time, not less than ten (10) days nor more than twenty (20) days prior to the holding of the first of such elections.
- G. Notice of the holding the candidate qualifying period for such election shall be given by publication in a newspaper having general circulation throughout the City, which notice shall give the time and place where such elections shall be

held; and notice shall be published twice during a thirty (30) day period prior to the beginning of the candidate qualifying period.

(Ord. No. 890, 1-20-1998/3-10-1998; Ord. No. 979, § 1, 1-28-2003; Ord. No. 1077, § 1, 5-23-2006/11-7-2006)

ARTICLE IV. BOARD OF COMMISSIONERS

Section 4.1 General powers.

The Commissioners of the City of Madeira Beach shall have and exercise all powers conferred by general law, upon municipal officers, not inconsistent with the terms of this Charter.

State law reference-Municipal home rule powers, Florida Statutes ch. 166.

Section 4.2 Oath of office.

All officers of the City of Madeira Beach, before entering upon the duties of their office, shall by oath or affirmation subscribed to faithfully perform the duties of their office and the Constitution of the laws of the State of Florida and the United States of America.

State law reference-Oath, Florida Statutes § 876.05.

Section 4.3 Mayor.

The Mayor shall preside at meetings of the Board of Commissioners, shall have voice and vote in the proceedings of the Commission, shall be recognized as the official head of the City of Madeira Beach, Florida, government for all ceremonial purposes, for service of process, and as the City of Madeira Beach, Florida, official designated to represent the City of Madeira Beach, Florida, in all agreements with other entities or certifications to other government entities, but shall have no administrative duties *except* as required to carry out the responsibilities herein.

(Ord. No. 1001, 12-14-2004/3-8-2005)

Editor's note-Ord. No. 1001, adopted December 14, 2004, amended § 4.3 in its entirety to read as herein set out. Formerly, § 4.3 pertained to the mayor-commissioner and derived from original codification.

Section 4.4 Vice-Mayor.

The Board of Commissioners shall appoint a Vice-Mayor at its first regular meeting following the election when new Commission members are sworn into Office. The term of Vice-Mayor shall be for one (1) year. The Vice-Mayor shall act as Mayor during the absence

or disability of the Mayor. Should the Vice-Mayor be required to act as Mayor for a period in excess of thirty (30) days, he/she shall receive the compensation of the Mayor retroactive to the date upon which he/she assumed the Mayoral duties.

(Ord. No. 979, § 2, 1-28-2003; Ord. No. 1001, 12-14-2004/3-8-2005)

Section 4.5 Rules of procedure; quorum; meetings.

- A. *Meetings.* The Board of Commissioners shall meet regularly at such times and places as determined by the Board of Commissioners. The Board of Commissioners may schedule other regular meetings as it deems necessary in accordance with its established rules of procedure. Special meetings may be held on the call of the Mayor, ~~or by a majority of the Commission members,~~ or by the City Manager with no less than twenty-four (24) hours' notice in writing to each member and the public. Any such notice shall state the subject to be considered at the special meeting which shall be restricted to the items specified in the notice.
- B. *Rules.* The Board of Commissioners shall determine its own rules and order of business, by resolution, ~~at the Board of Commissioners first regular meeting within 60~~ days following each election.
- C. *Voting.* Unless otherwise expressly provided by this Charter, Ordinances, Resolutions and other actions requiring a vote of the Board of Commissioners shall require a roll call vote three (3) affirmative votes for passage, and shall be by roll call vote upon request of any member of the Board of Commissioners. The City Clerk shall record all votes of all Commission members in the journal. A simple majority of the Board of Commissioners shall constitute a quorum, and a quorum shall be necessary to conduct the business of the Board of Commissioners.

(Ord. No. 1003, 12-9-03)

Section 4.6 Prohibitions.

- A. *Holding other office.* Except where authorized by law, no Commissioner ~~er member~~ member shall hold any other City office or City employment during the term for which he/she was elected to the Board of Commissioners, and no former Commission-~~er member~~ member shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he/she was elected to the Board of Commissioners.
- B. *Appointments and removals.* Neither the Board of Commissioners nor any of its members shall in any manner dictate the appointment or removal of any City administrative officer or employees whom the City Manager or any of his/her subordinates are empowered to appoint, but the Board of Commissioners may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

C. *Interference with administration.* Except for the purpose of inquiries and investigation, the Board of Commissioners or its members shall deal with the City officers and its employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Board of Commissioners or its members shall give orders to any such officers or employee, neither publicly nor privately, except as provided under the emergency powers section of this Charter. The Board of Commissioners or any of its committees or members, individually or collectively, shall not direct or request the appointment of any person or his/her removal from, office by the City Manager or any of his/her subordinates or in any manner, directly or indirectly, take part in the appointment or removal of any officers or employees or members of Boards in the Administrative Service of the City of Madeira Beach, Florida. The Board of Commissioners nor any member thereof shall give orders to any subordinate or Officer of said City, either publicly or privately, directly or indirectly.

D. *Nepotism prohibited.* The Board of Commissioners or the City Manager of the City of Madeira Beach, Florida, shall not employ nor contract with any member of the Board of Commissioners or with the City Manager or the Clerk of the City of Madeira Beach, Florida, nor with any relative of the blood or affinity of any member of the Board of Commissioners or City Manager of the City of Madeira Beach, Florida, or the City Clerk thereof.

RALF, THE COMMITTEE ASKED THAT YOU INSERT BETTER LANGUAGE FOR NEPOTISM PROHIBITED.

E. *Anti-Nepotism Law.* A public official is prohibited from seeing for a relative any appointment, employment, promotion, or advancement in the agency in which he she is serving or over which the official exercises jurisdiction or control. she e is serving or over which the official exercises jurisdiction or control. No person may be appointed, employed, promoted, or advanced in or to a position in an agency if such action has been advocated by a related public official who is serving in or exercising jurisdiction or control over the agency; this includes relatives of members of collegial government bodies.

F. Nothing contained above shall limit the Board of Commissioners from contracting with the City Manager or City Clerk for services rendered in connection with their office.

(Ord. No. 1004, 12-14-2004/3-8-2005)

State law reference-Code of ethics, Florida Statutes § 112.311 et seq.

Section 4.7 Creation of new departments.

The Board of Commissioners by ordinance may create, change, and abolish offices, departments and agencies established by this Charter. The Board of Commissioners by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department

or agency a function or duty assigned by this Charter to a particular office, department or agency.

Section 4.8 Induction of Board of Commissioners into office; meetings.

The first meeting of each newly elected members of the Board of Commissioners for induction into office shall be ~~at a~~ ~~on the first regular~~ special Board of Commissioners meeting before the last day of March following the election. The Board of Commissioners may hold such special and regular meetings at such times as they may prescribe, but not less frequently than once each month. Meetings of the Board of Commissioners shall be open to the public in accordance with the Florida Statutes.

(Ord. No. 979, § 2, 1-28-03; Ord. No. 1005, 12-9-03)

Section 4.9. Recall

The Recall of Elected officials shall be governed by Section. 100.361, F.S., as amended.

State law reference-Meetings to be open to the public, Florida Statutes § 286.011.

Section 4.9 4.10 Investigations.

The Board of Commissioners may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Board of Commissioners shall be guilty of a misdemeanor and punishable by a fine of not more than five hundred (\$500.00) dollars, ~~or by imprisonment for not more than sixty (60) days, or both.~~

RALF, THE COMMITTEE ASKED IF THE INVESTIGATION SECTION CAN BE REMOVED.

Section 4.10 Independent audit.

The Board of Commissioners shall provide for an independent annual audit of all City accounts and may provide for ~~a more comprehensive such more request~~ audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Board of Commissioners may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three (3) years, provided that the designation for any particular fiscal year shall be made not later than ninety (90) days after the beginning of such fiscal year. If the State of Florida makes such an audit, the Board of Commissioners may accept it as satisfying the requirements of this section.

State law reference - Independent fiscal audit required, Florida Statutes §§

166.241, 218.32.

Section 4.11 Compensation; expenses.

The Board of Commissioners may determine the annual salary of Commissioners by Ordinance, but no Ordinance increasing such salary shall become effective until the date of commencement of the terms of Commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months.

All members of the Board of Commissioners, ~~including the Mayor,~~ may be reimbursed for any ordinary travel and other expenses incurred in connection with their official duties inside and outside the limits of Pinellas County and shall account therefore in accordance with Florida Statutes.

~~Salary rates of six hundred (\$600.00) dollars per month for the Mayor and four hundred (\$400.00) dollars per month for District Commissioners shall be paid until amended by ordinance as hereinabove provided.~~

~~Changes in the salaries of the Board of Commission members shall be established by Ordinance.~~

(Ord. No. 722, 9-6-1988/4-4-1989; Ord. No. 1007, 12-14-2004/3-8-2005)

MAKE THIS SECTION 6.4. ARTICLE V. CITY MANAGER

Section 5.1 Appointment; qualifications; compensation.

The Board of Commissioners shall appoint a City Manager ~~for an indefinite term~~ and fix his/her compensation. The Manager shall be appointed ~~solely~~ on the basis of his/her executive, profession, and administrative qualifications, ~~but may reside outside the City while in office only with the approval of the Board of Commissioners.~~ with special reference to actual experience in, or knowledge in respect to the duties of the office set forth. The City Manager must be a member in good standing of the International City/County Management Association.

The City Manager will be hired by the Board of Commissioners under a written employment contract.

While it is desirously of the City Manager to live within the City of Madeira beach it is not mandatory.

Section 5.2 Removal.

The Commission may remove the Manager from office in accordance with the following procedures:

1. The Board of Commissioners shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period of time not to exceed forty-five (45) days. A copy of the resolution shall be delivered promptly to the Manager.
2. Within five (5) days after a copy of the resolution is delivered to the Manager, he may file with the Board of Commissioners a written request for a public hearing. This hearing shall be held at a Board of Commissioners meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Board of Commissioners a written reply to the resolution for removal not later than five (5) days before the hearing.
3. The Board of Commissioners may adopt a final resolution of removal, which may be made effective immediately, but affirmative vote of a majority of all of its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if ~~he/she~~ has not requested a public hearing, or at any time after the public hearing if he has requested one.

The Manager shall continue to receive ~~his/her~~ salary until the effective date of a final resolution of removal. The action of the Board of Commissioners in suspending or removing the Manager shall not be subject to review by any Court or agency.

~~RALF, THE COMMITTEE ASKED IF REMOVAL SECTION NEED TO BE REMOVED FROM THE CHARTER. And, if you have an employment contract what is legal requirement language regarding removal to be in the contract.~~

Section 5.3 Acting City Manager.

By letter filed with the City Clerk, the Manager shall designate, ~~subject to approval of the Board of Commissioners~~, a qualified City administrative officer to exercise the powers and perform the duties of Manager during ~~his/her~~ temporary absence or disability, the Board of Commissioners may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his/~~her~~ disability shall cease.

~~In the event of the failure of the City Manager to make such designation the Board of Commissioners by resolution may appoint a qualified City administrative officer to serve in the temporary absence or disability of the City Manager.~~

Section 5.4 Powers and duties of the City Manager.

The City Manager shall:

Be the chief administrative officer of the City.

Be responsible to the Board of Commissioners for the administration of all City affairs placed in his/her charge by or under this Charter.

Have the following powers and duties to:

1. Appoint and, when he/she deems it necessary for the good of the City, suspend or remove all City employees and appointive administrative officers provided for or under this Charter that he/she is empowered to appoint, except as otherwise provided by law, this Charter, contract or personnel rules adopted pursuant to this Charter. He/she may authorize any administrative officer who is subject to his/her direction and supervision to exercise those powers with respect to subordinates in that officer's department, office or agency.
2. Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided in this Charter or by law.
3. Attend all Board of Commissioners meetings and shall have the right to take part in discussions but may not vote.
4. See that all laws, provisions of this Charter and directives of the Board of Commissioners, subject to enforcement by him/her or by officers, subject to his/her direction and supervision, are faithfully executed.
5. Recommend to the Board of Commissioners for adoption such measures as he/she may deem necessary or expedient in the interest of the City.
6. Prepare and submit the annual budget and capital program to the Board of Commissioners.
7. Make such other reports as the Board of Commissioners may require concerning the operations of the City departments, offices and agencies subject to his/her direction and supervision.
8. Keep the Board of Commissioners fully advised as to the financial condition and future need of the City and make such recommendations to the Board of Commissioners concerning the financial affairs of the City as he/she deems necessary.
9. See that all terms and conditions imposed in favor of the City or its residents in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, he/she shall call the same to the attention of the City Attorney and the Board of Commissioners.
10. Be the purchasing agent of the City, by whom all purchases of supplies shall be made. In the capacity of purchasing agent he/she shall also conduct all sales of personal property. The Board of Commissioners shall, by ordinance, establish regulations governing the purchasing and sales criteria of the City Manager. The Board of Commissioners may from time to time prescribe amendments to the

purchasing and sales criteria ordinance.

11. Perform such other duties as are specified in the Charter or may be required by the Board of Commissioners.

Ord. No. 1009, 12-9-03)

ARTICLE VI. CHARTER OFFICERS, ADMINISTRATIVE DEPARTMENTS AND CIVIL SERVICE COMMISSION

Section 6.1 City Clerk, City Attorney and ~~City Treasurer~~ City Manager; Charter Officers.

There shall be appointed a City Clerk, City Attorney and ~~City Treasurer~~ City Manager who shall serve at the pleasure of the Board of Commissioners and said officers shall be considered "Charter Officers".

Section 6.2 City Clerk.

The Board of Commissioners shall appoint an officer of the City, who shall have the title of City Clerk, who shall give notice of its meetings, who shall keep the journal of its proceedings, who shall authenticate by his/her signature and record in full in a book kept for the purpose, all Ordinances and Resolutions and who shall perform other duties as shall be required by this Charter or by Ordinance.

The City Clerk, with the approval of the City Commission, may appoint Deputy Clerks who when appointed shall have such powers and authority as shall be conferred by the Board of Commissioners.

The Public Records of the City of Madeira Beach shall be in the custody of the City Clerk of said City and he shall be responsible for their safety.

The City Clerk shall be the secretary ex-officio for the Civil Service Commission. State law reference-Public records act, Florida Statutes ch. 119.

Section 6.3 City Attorney.

The Board of Commissioners shall appoint a City Attorney, upon such terms and for such compensation as the Board of Commissioners shall fix. The City Attorney shall act as legal advisor to an attorney for the City and all of its officers or employees in matters arising out of the performance of their official duties for the City.

The City Attorney shall prosecute and defend or assist in the prosecution and defense, for and in behalf of the City, all complaints, suits and controversies in which the City is a party, and shall perform such other professional duties as may be required of him by official action of the Board of Commissioners.

The City Attorney shall be an attorney at law, admitted to practice before the highest courts of the State of Florida and the Federal District Court for the Middle District of Florida.

The Board of Commissioners may appoint such assistant City Attorney as they deem necessary. The Board of Commissioners may contract with such other attorneys or firm of attorneys to perform such services on behalf of the City on specialized projects as may be deemed necessary or expedient in the discretion of the Board of Commissioners.

Section 6.4 ~~City Treasurer~~ City Manager.

~~There shall be a director of finance who in turn shall also be the City Treasurer. The director of finance shall be appointed by the City Manager subject to Board of Commissioner's approval. The director of finance shall be accounting department head, responsible for personnel and equipment of finance, accounting, cashiering, licensing, billing and collecting sums due the City and related financial accounting and systems operations. The director of finance shall be personally responsible for maintaining current and accurate accounting records of City activities, in accordance with accepted municipal accounting practices and governing city laws. He shall issue monthly financial reports to the Board of Commissioners. All matters concerning the fiscal and financial conditions of the City shall be his/her responsibility and he/she shall assist in preparing the annual financial budget, the monthly financial reports, showing comparison of revenue and expenditures to anticipated revenues and appropriation expenditures. He shall be responsible for advising the City Manager and the Board of Commissioners as soon as possible concerning significant deviation. The director of finance shall be personally responsible for adequate safeguards for City assets, including cash, inventories, equipment and pertinent records concerning the same, as well as records of all receivables and liabilities of the City. Adequate safeguards shall include the proper internal control procedures and sufficient insurance concerning any theft, casualty and liability exposure. The director of finance shall be the custodian of all monies of the City and responsible for promptly depositing all receipts in designated bank accounts as well as responsible for prompt payment of current bills and obligations against the City, when approved.~~

~~The director of finance shall be properly and sufficiently bonded.~~

Section 6.5 Administrative departments.

- A. *Creation of departments.* The Board of Commissioners may establish or abolish departments of the City, offices or agencies pursuant to the authority granted by ARTICLE IV, Section 4.7, of this Charter.
- B. *Direction by Manager.* All departments, offices and agencies shall be under the direction and supervision of the City Manager and shall be further administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the Board of Commissioners, the Manager may serve as the

head of one or more such departments, offices or agencies or may appoint one person as the head of two or more of them.

Section 6.6 Personnel systems; Civil Service Commission.

- A. *Merit principal.* All appointments and promotions of City employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- B. *Civil Service Commission; Membership.* There shall be a Civil Service Commission of the City of Madeira Beach, Florida, which Commission shall be composed of five citizens of said City. The Civil Service Commission shall be appointed by the Board of Commissioners of the City of Madeira Beach, Florida. The term of office for each member shall be three years and shall be staggered so that not more than two terms expire within any one year. Three Commissioners shall constitute a quorum. Members of the Civil Service Commission shall hold no remunerative office or employment under the City of Madeira Beach, Florida. The Board of Commissioners of the City of Madeira Beach, Florida, shall have the authority to remove for cause any and/or all Civil Service Commissioners.
- C. *Personnel Rules.* The Civil Service Commission shall prepare personnel rules. When concurred in by the City Manager, the rules shall be proposed to the Board of Commissioners, and the Board of Commissioners may by Ordinance adopt them with or without amendment. These rules shall include, but are not limited to:
 - 1. The classification of all classified City positions based upon the duties, authority and responsibility of each position, with adequate provisions for classification of any position whenever warranted by circumstances;
 - 2. A pay plan for all classified City positions;
 - 3. Methods for determining the merits and fitness of candidates for appointment or promotions;
 - 4. The policies and procedures regulating reduction in force, demotion, suspension and removal of employees;
 - 5. The hours of work, attendance regulation and provisions for sick and vacation leave;
 - 6. Grievance procedures, including procedures for the hearing of grievances by the Civil Service Commission, which may render advisory opinions based on its findings to the City Manager with a copy to the aggrieved employee. In this respect the Civil Service Commission shall have the power to issue subpoenas to compel attendance by witnesses and to administer oaths;

7. Other practices and procedures necessary to the administration of the City personnel system;
8. In connection with the aforementioned personnel rules, the Civil Service Commission shall inquire into the implementation of such personnel rules as considered necessary to ensure compliance therewith.

D. *Duties and powers of the Civil Service Commission.* All duties, powers, reservations on power, and funding for the Civil Service Commission may be provided for by Ordinance duly passed by the Board of Commissioners of the City of Madeira Beach, Florida.

E. *Powers to collectively bargain recognized.* Nothing contained in this Charter shall limit the power of the Board of Commissioners of the City of Madeira Beach, Florida, acting through its manager from entering into collective bargaining negotiations with any officers, employees, or group of employees for the purpose of establishing by contract conditions of employment, rules or compensation of said officers, employees, or groups of employees. For the purposes of this Charter, ARTICLE I, Section 6, of the Constitution of the State of Florida is specifically recognized.

(Ord. No. 446, 1-28-1975; Ord. No. 664, 8-14-1984/11-7-1984)

ARTICLE VII. ORDINANCES AND RESOLUTIONS*

Section 7.1 [Power of Board of Commissioners to make ordinances and resolutions.]

*State law reference-Uniform minimum mandatory procedure for the adoption of ordinances, F.S. § 166.041.

The Board of Commissioners of the City of Madeira Beach shall have the power to make ordinances and resolutions and establish for the government of said City, such ordinances or resolutions in writing not inconsistent with the Charter, Constitution and laws of the State of Florida, or the United States, as they may deem necessary. Said ordinances to be passed and become effective as hereinafter provided for.

Section 7.2 Definitions.

- A. As used in this Charter the following terms and words shall have the following meanings unless some other meaning is plainly indicated:

Code. Any published compilation of rules and regulations which have been prepared by various technical trade associations and shall include specifically, but shall not be limited to, building codes; plumbing codes; electrical wiring codes; health or sanitation codes; fire prevention codes; inflammable liquid codes; codes

for the processing and sale of food stuffs for human consumption, together with any other code which embraces rules and regulations pertinent to a subject matter which is a proper municipal legislative matter.

Ordinance. An official, legislative action of the Board of Commissioners, which action is a regulation of a general and permanent nature and enforceable as local law.

Public Record. Any City, State of Florida or Federal Statute, ordinance, rule or regulation adopted prior to the exercise by City of Madeira Beach of the authority to adopt or incorporate by reference as herein granted.

Published. Printed, lithographed, multi-graphed, mimeographed or otherwise reproduced.

Resolution. An expression of the Board of Commissioners concerning matters of administration, expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Board of Commissioners.

Section 7.3 Procedure for the enactment of ordinances and resolutions.

- A. Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, sub-section or paragraph of a section or subsection.
- B. A proposed ordinance may be read by title, or in full, on at least two separate days and shall, at least fourteen (14) days prior to the adoption, be noticed once in a newspaper of general circulation in Madeira Beach, Florida. The notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances and the place or places within the City of **Madeira Beach**, where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- C. The Board of Commissioners with a two-- thirds (%) vote may enact an emergency ordinance without complying with the requirements of paragraph (b) of this section.
- D. A proposed resolution may be read by title, or in full, at no less than one regular meeting of the Board of Commissioners of the City of Madeira Beach, Florida. The notice and publication requirements as set forth hereinabove as applying to ordinances shall not be required for the passage of resolutions.
- E. The majority of the members of the Board of Commissioners shall constitute a quorum. The affirmative vote of the majority of a quorum present shall be necessary to enact

an ordinance or adopt any resolution provided that two-thirds (o/s) of the membership of the Board is required to enact an emergency ordinance. On final passage, the vote of each member of the Board of Commissioners voting shall be entered on the official record of the meeting.

- F. Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose, and shall be signed by the presiding officer and attested to by the City Clerk.

State law reference - Uniform minimum mandatory procedure for the adoption of ordinances, F.S. § 166.041.

Section 7.4 Effective date.

All ordinances or resolutions as passed by the Board of Commissioners shall become effective ten (10) days after the passage or as otherwise provided therein.

Section 7.5 Ordaining clause.

The ordaining clause of every ordinance shall be as follows:

"Be it ordained by the Board of Commissioners of the City of Madeira Beach, Florida. 11

Section 7.6 Adoption by reference of standard codes.

The City of Madeira Beach is hereby authorized and empowered to adopt or incorporate by reference the provision of any code or public record, or any portion thereof, without setting forth the provisions of such code or public record in full, provided that at least one (1) copy of such code or public record, which is adopted or incorporated by reference are filed in the office of the City Clerk, and are kept available for public use, inspection and examination. The filing requirement herein required shall not be deemed to be complied with unless the required copies of such code or public record are filed with the City Clerk for a period often (10) days prior to the passage of the ordinance adopting or incorporating such code or public record by reference.

Nothing contained in this act shall be deemed to relieve the City from any requirement of giving notice of any ordinance which adopts or incorporates any such code or public record by reference, but all provisions applicable to such publication shall be fully and completely carried out as if no code or public record was adopted or incorporated therein.

Nothing contained in this Charter shall be deemed to permit the adoption of the penalty clauses by reference which may be established in the code or public record which is adopted or incorporated by reference, but all penalty clauses shall be set forth in full in the adopting ordinance and be published along with and in the same manner as the adopting ordinances required to be published.

Any subsequent amendments or revisions of any such code or public record may be adopted or incorporated by reference in the same manner as the original, as above authorized.

The City of Madeira Beach shall not be required to re-adopt any such code or public record heretofore adopted or incorporated by reference (but all previous adoptions or incorporation by reference), which would have been valid if this Charter had been in effect, are hereby ratified and declared effective, provided, however, that the requisite is forthwith filed with the City Clerk, if they have not already been so filed.

State law reference-Minimum mandatory technical codes, F.S. § 553.73.

Section 7.7 Inconsistency.

Ordinances must not be inconsistent with the Charter. The Board of Commissioners shall have the power to pass any and all ordinances not inconsistent with the provisions of this Charter.

ARTICLE VIII. MUNICIPAL TAXATION*

Section 8.1 Taxes and charges; authority to levy.

The Board of Commissioners of the City of Madeira Beach, Florida may raise by taxation and licenses authorized by the Constitution or general laws of the State of Florida or by user charges or fees authorized by ordinance, amounts of money which are necessary for the conduct of municipal government and may enforce the receipt and collection in the manner prescribed by ordinances not inconsistent with the general law of the State of Florida.

Section 8.2 Ad valorem taxes.

- A. The Board of Commissioners shall have the right by ordinance to levy ad valorem taxes on real and tangible personal property within the municipality and in an amount not to exceed ten (10) mills on the dollar on the fair cash value of all the real and tangible property in said City and out of funds so raised, the Board of Commissioners shall have the right and authority to expend an amount not in excess of one-fourth (1/4) mill on the dollar of all the taxable property in said City for the purpose of giving publicity to the advantages, facilities, and resources of said City. In addition to the right to levy ad valorem tax on ten (10) mills on the dollar as herein provided, said City shall also have the right to levy such additional taxes, following referendum by the electors in the manner hereinafter provided, as may be necessary to pay the interest on the outstanding bonds of said City, and such additional bonds as said City may, from time to time, issue in accordance with the law, and also to provide a sinking fund for the redemption of said bonds when the same mature. Said additional taxes shall be levied in a manner not inconsistent with the general law of the State of Florida.

- B. It shall be the duty of the Board of Commissioners, after having adopted the budget as provided in this Charter, and after having been notified of the amount of total taxable property in the City, to fix and determine the millage, which shall be levied and assessed against such taxable property, and to certify to the tax assessor of Pinellas County, Florida, the amount of such millage, such certificate to be signed by the Mayor- Commissioner, or in his absence the Vice-Mayor, and the seal of the City placed thereon and attested by the City Clerk.
- C. At any time, millage rates are published for the purpose of giving notice, the rates shall be stated in terms of dollars and cents for every thousand dollars of assessed property value.

State law reference - Ad valorem taxation authority, F.S. § 166.211.

Section 8.3 Regulatory fees.

The Board of Commissioner may levy reasonable business, professional occupational regulatory fees, commensurate with the cost of regulatory activity, including consumer protection, on such classes of business, professions, and occupations, the regulation of which has not been preempted by the State or by Pinellas County. Said levy of business, professional, and occupational regulatory fees shall be by ordinance.

State law reference-Regulatory fee authority, F.S. §166.221.

Section 8.4 Public service tax.

The Board of Commissioners of the City of Madeira Beach, Florida, shall have the right to levy by ordinance in a manner not inconsistent with the general law of the State of Florida, a tax on the purchase of electricity, metered or bottled gas (natural liquified petroleum gas or manufactured), fuel oil for heating purposes, water service, telephone service, telegraph service, and cable television service. The tax shall be only upon purchases within the municipality and shall not exceed ten (10) percent of the payments received by the seller of the taxable item from the purchaser for the purchase of such services.

State law reference-Municipal finance and taxation, F.S. § 166.201 et seq.

Section 8.5 All taxes to remain in effect.

All ad valorem taxes, regulatory fees, and public service taxes or other taxes or fees in effect on the effective date of this Charter not inconsistent with the provisions of this Charter shall remain in effect and be collectible in accordance with ordinances passed prior to the adoption of this Charter.

Section 8.6 Authorization to levy other forms of taxes or fees.

Nothing contained in this Charter shall be construed as a limitation upon the power of the Board of Commissioners of the City of Madeira Beach, Florida, to levy such other forms of taxes or fees as may, from time to time, be authorized. By the general law of the State of Florida.

State law reference – Taxation authority, F.S. 1166.201 et seq.

ARTICLE IX. MUNICIPAL BORROWING

Section 9.1 Definitions.

As used in this part, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

Ad valorem bonds. Bonds which are payable from the proceeds of ad valorem taxes levied on real and tangible personal property.

Bond. Bonds, debentures, notes, certificates of indebtedness, mortgage certificates, or other obligations or evidence of indebtedness of any type or character.

General obligation bonds. Bonds which are secured by, or provided for their payment by, the pledge, in addition to those special taxes levied for their discharge in such other sources as may be provided for their payment or pledged as security under the ordinance or resolution authorizing their issuance, of the full faith and credit and taxing power of the municipality and for payment of which, recourse may be had against the general fund of the municipality.

Improvement bonds. Special obligations of the municipality which are payable solely from the proceeds of the special assessments levied for a municipal project.

Project. A governmental undertaking approved by the Board of Commissioners and includes all property right, easements and franchises related thereto and deemed necessary or convenient for the construction, acquisition or operation thereof, and embraces any capital expenditure which the Board of Commissioners shall deem to be made for a public purpose including the refunding of any bonded indebtedness which may be outstanding on any existing project which is to be improved by means of a new project.

Refunding bonds. Bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds shall be issuable and payable in the same manner as the refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

Revenue bonds. Obligations of the municipality which are payable from revenues derived from sources other than ad valorem taxes on real or tangible personal property and which do not pledge the property, credit, or general tax revenue of the municipality.

Section 9.2 Authority to borrow.

The Board of Commissioners may **borrow** money, contract loans and **issue** bonds as defined in Section 9.1, from time to time, to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the City of Madeira Beach for the payment of such debts and bonds.

State law reference - Authority to borrow, F.S. § 166.111.

Section 9.3 Issuance of bonds.

- A. Bonds issued shall be authorized by resolution or ordinance of the Board of Commissioners and, if required by State Constitution or this Charter, by affirmative vote of the electors of the municipality. Such bonds may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, registered or not with or without coupon, carry such conversion or registration privileges, have such rank or priority, be executed in such manner be payable in such medium or payment, at such place or places, and subject to such terms of redemption, with or without premium, be secured in such manner and have such other characteristics as may be provided by such resolution or ordinance or trust indenture or mortgage issued pursuant thereto.
- B. The Board of Commissioners shall determine the terms and manner of sale and distribution or other dispositions of any and all bonds it may issue, and it shall have any and all powers necessary or convenient to such disposition.

State law referenc-Issuance of bonds, F.S. § 166.121.

Section 9.4 Establishment of sinking funds.

The Board of Commissioners may establish and administer such sinking funds as it deems necessary or convenient for the payment, purchase or redemption of any outstanding bonded indebtedness of the City of Madeira Beach.

State law reference-Sinking funds, F.S. § 166.122.

Section 9.5 Levy of taxes for payment of debt.

The Board of Commissioners may levy ad valorem taxes in the manner provided in ARTICLE VIII of this Charter upon real and tangible personal property ¹/₄ithin the City of Madeira Beach as it deems necessary to make payment, including principal and interest, upon the general obligation and ad valorem bonded indebtedness of the municipality or into any sinking fund created pursuant to the provisions of this Charter.

State law reference-Levy of taxes for payment of debt, F.S. § 166.131.

Section 9.6 Full authority to issue bonds.

This Article shall be full authority for issuance of bonds authorized in this Charter.

State law reference-Full authority to issue bonds, F.S. § 166.141.

ARTICLE X. FINANCIAL PROCEDURES

Section 10.1. Fiscal year.

The fiscal year of the City shall begin on the first day of October and end on the 30th day of September of each year.

State law reference - Mandated fiscal year, F.S. § 166.241.

Section 10.2 Annual estimates.

The City Manager, 90 days before the beginning of the fiscal year, shall make his report covering the operation of the City, in which it shall be his duty to make and submit to the City Commission an estimate of the expenditures and revenues of the City, for the next fiscal year. This estimate shall be compiled from detailed information, and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional divisions and departments of the City and shall give in columns the following information.

1. Detailed estimate of the expenses of conducting each department and division of the City, including all public utilities and enterprises conducted by the City.
2. Expenditures for corresponding items during the two (2) fiscal years last passed.
3. Amount of supplies and materials on hand.
4. Increase of demands compared with corresponding appropriations for last fiscal year.
5. Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure.
6. Such other information as required by the Board of Commissioners or as the City Manager may deem advisable to submit.
7. The estimates so given, as to the amount necessary to be appropriated for the ensuing fiscal year, shall be supported with information giving the reasons therefor in such detail as may be necessary to afford the Board of Commissioners a comprehensive understanding for the needs and requirements of the various divisions of the City government for the ensuing period.
8. Sufficient copies of the report and estimate shall be prepared so that there may be copies on file in the office of the City Clerk for inspection by the public.

State law reference - Mandatory procedures for adoption of budget, F.S. § 200.065.

Section 10.3 Capital program.

- A. *Submission to Board of Commissioners.* The Manager shall prepare and submit to the Board of Commissioners a two-year capital program at least three (3) months prior to the beginning of the fiscal year.
- B. *Contents.* The capital program shall include:
1. A clear general summary of its contents;
 2. A list of all capital improvements which are proposed to be undertaken during the two (2) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
 3. Cost estimates, method of financing and recommending time schedules for such improvements; and
 4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in the process of construction or acquisition.

Section 10.4 Board of Commissioners action on budget.

As soon as practical after the receipt of the annual estimate provided for in Section 10.2, above, the Board of Commissioners shall determine and affix the amount necessary to carry on the government of the City for the ensuing year and shall by ordinance adopt a budget setting forth the amounts necessary to be raised for the various departments of the City and fixing the amount of millage to raise such sum. The ordinance adopting the budget and fixing the millage, including the budget so adopted, shall within ten (10) days after its passage on first reading, be published in one issue of a newspaper of general circulation in the City of Madeira Beach, Florida, together with a notice stating the time and place when objections thereto shall be heard by the Board of Commissioners. The Board of Commissioners shall sit at the time and place set forth in said notice and unless valid objections shall be made thereto, the said budget and millage therein fixed and adopted shall stand for the ensuing years; provided that in the event said budget or millage be changed at the time and in the place stated in said notice, no further publication of said budget as changed or amended shall be necessary. Provided, however, that during the fiscal year there may be intra-fund transfers made and adopted by resolution, as long as the total amount of the said funds remains unchanged.

Section 10.5 Transfer of funds; when permitted.

The Board of Commissioners shall have authority by resolution, whenever it is deemed necessary, to increase or decrease any particular fund contained in the said budget and if the Board of Commissioners should deem it wise and appropriate, they may authorize the City Manager to effect a short term loan or loans from any source under such terms and provisions as

the Board of Commissioners may authorize, pledging the credit of the City for such purpose or purposes. No transfers shall be made of any sinking fund or funds.

Section 10.6 Limitation of appropriations.

- A. At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation.
- B. Any accruing revenue of the City as herein provided, and any balance at any time remaining after the purpose of the appropriations shall have been satisfied or abandoned, may from time to time, be appropriated by the Board of Commissioners to such use as will not conflict with any uses for which such revenue specifically accrued. No money shall be drawn from the treasury of the City nor shall any obligation for the expenditure of any money be incurred, except pursuant to the appropriations made by the Board of Commissioners.

ARTICLE XI. LOCAL IMPROVEMENTS AND SPECIAL ASSESSMENTS

Section 11.1 Power to order certain improvements.

The Board of Commissioners have power to order certain improvements. The Board of Commissioners shall have the power to establish grades and drains on all public streets and thoroughfares of the City, and shall have the power to pave, repave, curb, open, construct, lay out, repair or otherwise improve any street, alley, sidewalk, park or other public highway or any part thereof, and to lay out, construct, alter, repair or improve sewers, bulkheads, seawall and all other necessary public improvements within the city limits of the City of Madeira Beach. Bulkheads, seawall, retaining walls and other necessary structures in the vicinity of, or along, or near, or abutting on, the waterfront may be constructed upon public or private property where such bulkheads, seawall, retaining walls and other necessary structures in connection therewith are necessary to hold, protect or retain the streets or public property of the City of Madeira Beach.

Section 11.2 Assessment of cost.

The Board of Commissioners shall have the power to assess the cost of any of the improvements authorized in this section against the property especially benefitted thereby. This assessment shall be made substantially in the manner hereinafter provided, to wit:

1. *Initial proceeding.* The initial proceeding for a local improvement which is to be specially assessed against benefitted property owners shall be the passage, at a meeting of the Board of Commissioners, of a resolution ordering such local improvement to be made under this section, stating the nature of the proposed improvement, designating the location of the improvement, what part or portion of the expense thereof is to be paid for by special assessment, the manner in which said assessment shall be made, when said assessments are to be paid, what part, if any, shall be apportioned to be paid from the general improvement fund of the City, and said resolution shall also designate the lands upon which the special assessment shall be levied.

2. *Resolution.* The resolution may give any short and convenient designation to each improvement ordered thereby, and the property against which assessments are to be made, for the cost of such improvement, shall be designated as a district followed by a letter or number, or anything to distinguish it from other districts, after which it shall be sufficient to refer to such improvement and property by such designation in all proceedings and assessments except as hereinafter provided.
3. *Plans and specifications.* Immediately after the passage of said resolution, the City Clerk shall prepare and file in his/her office plans and specifications of each improvement ordered thereby and estimates of the cost thereof. There shall be included in the estimates of the cost of such improvements the cost thereof and all incidental expenses to be assessed against property benefitted thereby. Such plans and specifications and estimates shall be open to the inspection of the public.
4. *Publications and notice of resolution.* The City Clerk upon filing by him of such plans, specifications and estimates, shall publish in a newspaper of general circulation in the City of Madeira Beach, a notice stating that a meeting of the Board of Commissioners on a certain day and hour not earlier than ten (10) days from the date of such publication, the Board of Commissioners will hear the objections of all interested persons to the confirmation of said resolution. Said notice shall state in brief and general terms a description of the proposed improvement with the location thereof, and shall also state the plans, specifications and estimates or costs thereof are on file in the office of the City Clerk.
5. *Confirmation.* At the time named in said notice, or to which an adjournment may be taken, the Board of Commissioners shall receive any objections of any interested persons and may then and thereafter repeal or confirm said resolution with such amendments, if any, as may be desired by the Board of Commissioners and which do not change in any way the location of the improvement or improvements.
6. *Advertisement for bids.* Upon the confirmation of said resolution ordering such improvements or any of them, the Board of Commissioners shall cause the City Clerk to advertise for sealed bids for the doing of the work ordered, which said advertisement shall be published in a newspaper of general circulation in the City of Madeira Beach once a week for two (2) consecutive weeks prior to the date designated for the receipt of such sealed bids.
7. *Award of contract.* Upon receipt of the bids, the Board of Commissioners shall examine the same and shall award contract or contracts for such improvements to the best qualified bidder, provided, however, nothing herein contained shall prevent the Board of Commissioners from rejecting any and all bids received and to re-advertise in the manner herein provided for original call for bids.
8. *Assessment.* Upon completion of any of the improvements so ordered as hereto provided, the Board of Commissioners shall, at its next regular meeting proceed to assess the cost of such improvement or improvements against the property specially benefitted thereby and,

in the proportion, benefitted, which assessment shall be accomplished by resolution duly passed and adopted by a majority of the Board of Commissioners and which resolution shall set forth the nature of the improvement, the description of the property to be assessed, the names of the owners of such property and the amounts to be assessed against the respective property therein listed.

9. *Hearing.* Immediately following the passage and adoption of the resolution making such assessment, the Board of Commissioners shall publish once in a newspaper of general circulation in the City of Madeira Beach, a notice stating that the Board of Commissioners on a certain day and hour not earlier than ten (10) days from the date of such publication, will meet and hear the objections of all interested persons to the confirmation of said resolution. Said notice shall state in brief and general terms the description of the improvement, the location thereof, the owner, the property to be assessed and the amounts to be assessed against each property so described.
10. *Amendment.* At the time named in said notice or to which an adjournment may be taken, the Board of Commissioners shall receive any objections of interested persons and may then or thereafter repeal or confirm said resolution with such amendments, if any, as may be desired by the Board of Commissioners. Upon confirmation of said resolution, whether in its original form or as amended said resolution shall be in full force and effect.

Section 11.3 Certificates of indebtedness.

The Board of Commissioners, as soon as said assessment is made may issue certificates of indebtedness for the amount so assessed against the abutting property and separate certificates may be issued against each tract of land assessed containing a description of the land and the amount of the assessment, together with the general nature of the improvement for which the assessment is made and the date thereof, which assessment when made shall constitute and become a lien against said property with priority to all other liens, except taxes and those for construction or repair of sewers, with which liens they shall have equal dignity upon the real estate so assessed.

Said certificates may be payable to bearer in equal annual installments of not exceeding (10) installments, to be determined by the Board of Commissioners, and shall bear interest to be fixed by the Board of Commissioners at a rate not greater than ten (10) percent per annum, payable annually from the date of issuance of such certificates, and the payment of said certificates and annual interest may be guaranteed by the City of Madeira Beach, and in case of nonpayment of the annual interest or principal at maturity by the property owner, the same shall be redeemed by the City at the option of the holder of said certificates but such redemption by the City shall not discharge the lien of the assessments against the abutting property. Said certificates shall be in such form as it prescribed by the Board of Commissioners, and if the Board of Commissioners shall so elect, the annual payments of interest and principal may be represented by coupons in form prescribed by the Board of Commissioners, said coupons to be attached to such certificates and the City Clerk or collector shall keep a record book in form to be prescribed by the Board of

Commissioners, in which shall be entered a record of all certificates and coupons heretofore or hereafter issued for public improvement of the character herein provided for, and on which shall be noted all payments or cancellations of such certificates or coupons.

The certificates, when issued, shall be turned over to the City depository, which, when ordered to do so by resolution of the Board of Commissioners, may sell or dispose of the same in such manner as may be provided for by said resolution in payment for said work or improvement or for property abutting any sidewalk or street, or any other improvement hereinbefore provided for, shall have the option to pay the entire amount of said assessment in cash upon notice of his intention to do so at any time before the actual sale or other disposal by the Board of Commissioners of such certificates and whenever, any such certificates or coupons attached thereto, shall be presented to the City Clerk or collector with request that the same be done, the same shall be canceled of record by the City Clerk or collector.

Section 11.4 Enforcing improvement liens.

In all cases mentioned in this act where the City of Madeira Beach has acquired or may hereafter acquire lien for improvements, such liens or any of them may be enforced by the City or in the name of the City by the holder thereof in any manner authorized by law.

ARTICLE XII. PLANNING AND ZONING*

Section 12.1 Authorized.

For the purpose of promoting health, safety, or the general welfare of the community, the Board of Commissioners is empowered to regulate and restrict height, the number of stories and size of buildings and other structures, the percentage of lot or parcel that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land and water for trade, industry, residents [residency] or other purposes in said City.

Section 12.2 City Planning Commission.

There shall be a City Planning Commission consisting of seven (7) members appointed by the Board of Commissioners for terms of three (3) years. Said appointments to be made from the electors of the City. Members of the City Planning Commission shall hold no other City office or City employment. The City Planning Commission may make recommendations to the City Manager and the Board of Commissioners on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof and shall exercise all other responsibilities as may be provided by law or may be assigned to them by the Board of Commissioners from time to time.

Section 12.3 Board of Adjustment.

The Board of Commissioners shall have the authority to appoint a Board of Adjustment if

judged to be in the best interests of the City. Said Board of Adjustment, if appointed, shall consist of five (5) members and two (2) alternate members who shall hold no other city office or city employment. The Board of Adjustment shall be established by ordinance which shall set forth the term of office, duties, responsibilities and authority of the members. Said ordinance creating the Board of Adjustment shall clearly set forth the scope of authority of the Board of Adjustment establishing its authority to act and render decisions on request for variances and special exception uses from the established zoning or building regulations. All rules of procedure established by the Board of Adjustment shall be subject to review and approval of the Board of Commissioners.

(Ord. No. 1013, 12-9-03)

Editor's note - Ord. No. 1013, adopted December 9, 20-03, renumbered the former§ 12.11 as§ 12.3.

Secs. 12.4-12.12. Reserved.

Editor's note - Ord. No. 1013, adopted December 9, 2003, repealed H 12.3-12.10, 12.12, which pertained to comprehensive plan, implementation of comprehensive plan, division of city into districts by ordinance, uniformity of regulations within districts, difference between districts, regulations to comply with comprehensive plan, hearing and notice on zoning ordinance, amendments, appeals to the board of commissioners, petition to Judge of Circuit Court of Pinellas County, and subdivision and plate and derived from original codification.

ARTICLE XIII INITIATIVE AND REFERENDUM