

**CITY OF MARCO ISLAND
ORDINANCE NO. 02-20**

AN ORDINANCE TO APPROVE AMENDMENTS TO THE EXISTING MARCO ISLAND CITY CHARTER TO BE ADOPTED ONLY THROUGH REFERENDUM ELECTION BY THE ELECTORATE ON SEPTEMBER 10, 2002; PROVIDING THAT THE PROPOSED CHARTER SHALL BE SUBMITTED TO THE ELECTORS OF THE CITY OF MARCO ISLAND AT A PRIMARY ELECTION ON SEPTEMBER 10, 2002; PROVIDING LANGUAGE FOR THE BALLOT; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes, provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 7.01 of the Charter of the City of Marco Island provides that the Charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, Chapter 166, Florida Statutes, as the same may be amended from time to time, or its successor, or as may otherwise be provided by general law; and

WHEREAS, the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, provides that the governing body of a municipality may, by ordinance, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except the part describing the boundaries of such municipality, and that the governing body shall place the proposed amendment contained in the ordinance to a vote of the electors at the next general election held within the municipality; and

WHEREAS, Section 101.161, Florida Statutes, provides the form and content for referenda ballots;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marco Island, Florida:

Section 1. Approval of Amendments to the City Charter.

The proposed amended City Charter, attached hereto and incorporated herein as Exhibit "A," is hereby approved.

Section 2. Vote of Electors at the Next Primary Election.

The proposed Amendment to the City Charter shall be submitted to a vote of the electors of Marco Island at the next Primary Election scheduled for September 10, 2002.

Section 3. Language on the Ballot.

The ballot to be used in said referendum election shall be in the following form:

**REFERENDUM ELECTION ON PROPOSED AMENDMENTS
TO THE MARCO ISLAND CITY CHARTER**

1. ELECTION OF CITY COUNCIL

Candidates seeking election to Council qualify for a specific seat and run "at-large." The candidates receiving the highest number of votes for each seat are elected. The amendment provides that all candidates will run for all vacant council seats. Those candidates receiving the highest number of votes will be elected. (e.g. Assume 10 candidates run for 3 vacant seats. Candidates receiving the 1st, 2nd, and 3rd highest votes will be elected to City Council).

Shall the above-described amendment be adopted?

Yes [] No []

2. UNNECESSARY, OBSOLETE, AND STYLISTIC AMENDMENTS

The Charter Review Committee and City Council recommend the Charter be amended to remove unnecessary or redundant language otherwise provided by State Statutes, to make stylistic and technical changes, and to delete obsolete language following the initial incorporation of the city.

Shall the above-described amendment be adopted?

Yes [] No []

3. VACANCIES ON COUNCIL, FORFEITURE OF OFFICE

City Council can fill a vacancy on Council by appointment when the remaining term is less than 28 months, but cannot fill a vacancy when there are more than 28 months remaining. The amendment requires appointment by Council to fill all vacancies on Council within 60 days, and it provides that Council shall determine when forfeiture of office occurs,

including absence of six regular meetings per year or four consecutive meetings.

Shall the above-described amendment be adopted?

Yes [] No []

4. BUDGET LIMITATIONS [MODIFIED SPENDING CAP]

The Charter limits annual expenditures to an increase of 3% plus C.O.L.A. The amendment retains the spending cap of 3% plus C.O.L.A., but the spending cap will not apply to expenditures funded by grants, gifts, and impact fees, and expenditures for utility and other enterprise funds that are self-supporting.

Shall the above-described amendment be adopted?

Yes [] No []

5. CHANGE OF TITLE OF PRESIDING OFFICER FROM CHAIRMAN TO MAYOR

The Charter provides that City Council shall annually select a chairman and vice-chairman from among the council members. The chairman presides at the meetings and serves as the ceremonial head of city government. The common title for the presiding officer of a city government is "mayor." The amendment will change the title of the presiding officer from chairman to mayor [and vice-mayor].

Shall the above-described amendment be adopted?

Yes [] No []

6. APPOINTMENT OF CITY CLERK

The Charter requires the city manager to serve as city clerk. The amendment will grant the city manager the authority to appoint a city clerk who shall give notice of public meetings, keep a journal of City Council proceedings, attest documents, and perform other duties as assigned. No additional employees will be required due to this amendment.

Shall the above-described amendment be adopted?

Yes [] No []

7. MAJORITY VOTE PREVAILS

The Charter requires a vote of at least the majority of the entire Council (4 votes) for decisions rendered by City Council. The amendment requires that decisions be rendered by a majority of Council members present and voting at a Council meeting.

Shall the above-described amendment be adopted?

Yes [] No []

8. SALARY OF COUNCIL

The Charter provides an annual salary of \$6,000 for each councilor and \$9,000 for the chairman. The National Civic League's "Model City Charter" recommends that changes to salary be authorized by ordinance. The amendment provides that council may establish, increase, or decrease compensation by ordinance. However, no such change will be applicable to any council member(s) throughout the remainder of their term of office.

Shall the above-described amendment be adopted?

Yes [] No []

Section 4. Incorporation, Conflict and Severability.

- (1) It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.
- (2) All sections or parts of sections of the Code of Laws and Ordinances of Collier County, Florida, all Collier County Ordinances or parts of ordinances and all Collier County Resolutions or parts of resolutions made applicable by the City Charter in conflict herewith are hereby repealed to the extent of such conflict.
- (3) If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

Section 5. Effective Date.

This Ordinance shall take effect immediately upon adoption by the Marco Island City Council; provided, however, that the proposed charter amendments shall be effective only upon, and immediately upon approval by the voters at the referendum election to be held on September 10, 2002, in accordance with the provisions of Section 166.031, Florida Statutes.

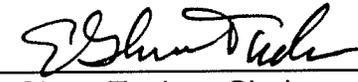
Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 17th day of June, 2002.

Attest:



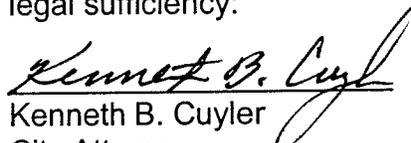
A. William Moss
City Manager/City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY: 

E. Glenn Tucker, Chairman

Approved as to form and
legal sufficiency:



Kenneth B. Cuyler
City Attorney

PROPOSED CHARTER – CITY OF MARCO ISLAND

ARTICLE I – INCORPORATION; POWERS

Section 1.01 – Incorporation.

There is hereby created and confirmed a municipal corporation, established August 27, 1997, in Collier County, Florida, by and under the name of the City of Marco Island, which henceforth shall comprise and include the lands in said county hereinafter described, and which city shall have the jurisdiction, powers, rights, and privileges set forth in this Charter.

Section 1.02 – Municipal Powers.

(1) All powers possible are granted to the city under the Constitution and the laws of the State of Florida. The city shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services. The city may exercise any power for municipal purposes unless expressly prohibited by law. The powers of the city shall be liberally construed in favor of the city.

Section 1.03 – Expenditure Limitations.

Notwithstanding section 1.02 above, operating expenditures shall be limited to an increase from the prior year's expenditures of three percent (3%) plus the then-current Federal C.O.L.A. (Department of Labor, Bureau of Statistics, Consumer Price Index) per annum following the third full year of incorporation; except that this shall not apply to: emergencies; capital expenditures as provided in section 6.01; expenditures relating to projects or programs funded by grants, gifts, or impact fees; and expenditures, including debt service payments, relating to utility or other enterprise funds which are intended to be self-supporting for governmental accounting purposes.

Section 1.04 – Dissolution.

The charter of the city may not be revoked except in accordance with the dissolution procedures of Chapter 165, Florida Statutes.

ARTICLE II – CORPORATE LIMITS

Section 2.01 – Description of Corporate Limits.

The following shall constitute the Corporate Limits of the City of Marco Island:

A Corporate Line lying offshore from Marco Island, in portions of Township 52 South, Range 26 East, Collier County, Florida, which line is described as follows: From the corner common to Sections 17, 18, 19, and 20, Township 52 South, Range 26 East, run Westerly along the line common to said Sections 18 and 19 to a point 2,640 feet offshore in the Gulf of Mexico from the Mean High Tide Line Section 18 and the point of beginning. From said point of beginning, run Southerly 2,640 feet offshore from the Mean High Tide Line of Marco Island, past the Southerly point of said Island to the mouth of Caxambas Pass, thence run Northeasterly in the waters of Caxambas Pass to the center line of the channel of said Caxambas Pass; thence run Easterly along the centerline of the channel of Caxambas Pass, to a point intersecting a marked channel running Northerly towards Barfield Bay; thence run Northerly along the centerline of said channel to a point 300 feet offshore in Barfield Bay from the Mean High Tide Line of the Easterly end of lands formerly known as J. M. Barfield Subdivision, thence run Northerly, Easterly, and Southerly, 300 feet offshore in Barfield Bay from the Mean High Tide Line of Marco Island to intersection with the centerline of Blue Hill Creek; thence run Southeasterly along the centerline of Blue Hill Creek to a point 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island; thence continue Northerly, Easterly, and Southerly 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island to centerline of the aforementioned Blue Hill Creek, thence run Northeasterly along the centerline of Blue Hill Creek, but to a point intersecting the line common to Range 26 East and Range 27 East, Township 52 South, Collier County, Florida; thence run Northerly along the line common to said Range 26 and 27, but to a point intersecting the centerline of the channel of the Big Marco River, thence Northerly, Northwesterly, and Westerly along the centerline of the aforementioned Big Marco River and out through the marked Capri Pass, being 2,640 feet offshore from the Mean High Tide Line of Marco Island; thence run Southwesterly, Southerly, and Southeasterly 2,640 feet offshore from the Mean High Tide Line of Marco Island to the point of Beginning lying along the

East-West line common to Sections 18 and 19, Township 52 South;
Range 26 East.

ARTICLE III – LEGISLATIVE

Section 3.01 – City Council.

(1) All legislative authority shall be vested in a seven-member city council elected from and representing the city at-large.

(2) If at any time subsequent to the initial election, the electorate and/or the city council conclude that the demographics of the city warrant that some of the city council seats should represent certain city districts while still being voted on by all the city electors, such changes can be effected as provided for in the Municipal Home Rules Powers Act, chapter 166, Florida Statutes, or as provided for in section 6.01 and section 7.01 of this charter.

Section 3.02 – Terms.

(1) The term of office shall be four years and no member shall serve more than two full consecutive terms.

(2) The terms shall be staggered such that elections to fill four seats shall be conducted during presidential primary election years, and three seats during non-presidential primary election years.

Section 3.03 – Seats.

There shall be seven separate council seats designated as seat one through seat seven.

Section 3.04 – Compensation.

(1) The salary of the chair shall be \$9,000 per year and the salary of each council member shall be \$6,000 per year, payable in equal monthly installments.

(2) An ordinance may be adopted which establishes, increases, or decreases compensation of the city council members. However, in no event shall any establishment of compensation or increase in compensation become effective with regard to any member of council throughout the remainder of that council member(s) term of office.

(3) The city council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

Section 3.05 - General Provisions.

(1) The council shall elect a mayor and vice mayor to serve for a term of one year, at the first meeting following the council election and the annual anniversary thereafter.

(2) The mayor shall preside at meetings of the council, shall have a voice and vote in its proceedings, and shall be recognized as head of city government for ceremonial purposes and for purposes of military law.

(3) The vice-mayor, in the absence of the mayor, shall have all the power and prerogative to perform the duties of the mayor.

(4) No former council member shall hold any compensated city position until four years after the expiration of the term for which the council member was elected.

(5) No council member shall direct or request, or participate in, the appointment or removal by the city manager of any employee in the administrative service of the city. Any council member in violation of this provision shall be subject to recall.

(6) Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly

or privately. Any council member violating the provisions of this section shall be subject to recall.

Section 3.06 – Vacancies.

(1) The seat held by a council member shall become vacant upon resignation, death, removal from office as authorized by law, or by forfeiture of office.

(2) A Council member shall forfeit the office held upon determination of the council by a majority vote of the council members seated, that the council member:

(a) Ceases to maintain permanent residence in the city or otherwise ceases to be a qualified elector of the city.

(b) Is absent from six regular meetings of council during any calendar year, or for any four consecutive regular meetings of council, whether or not during the same calendar year, unless excused by a majority vote of the council.

(c) Is disabled and unable to fulfill the responsibility of the office.

(3) A vacancy on the council shall be filled as follows:

(a) If a vacancy occurs and the remainder of the unexpired term is 28 months or less, the remaining council members shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the council members seated, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) If the remainder of the unexpired term exceeds 28 months, the remaining council members shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the council members

seated, appoint a person to fill the vacancy until the next regularly scheduled city election at which the balance of the term for the seat shall be filled in accordance with Article V.

- (c) If four or more council vacancies occur at one time, the Governor shall fill such vacancies until successors are chosen at the next regular election.

Section 3.07 – Meetings and Procedures.

(1) The council shall schedule a minimum of twelve (12) regular meetings each year. Special meetings may be held at the call of the mayor or a majority of members and, except in an emergency, all meetings shall be upon at least 24 hours notice to each member and the public.

(2) A majority of the council shall constitute a quorum. No action by the council shall be valid unless adopted by the affirmative vote of at least a majority of council members present and voting at the city council meeting. Nothing herein shall prohibit the city council from enacting an ordinance which provides for a supermajority vote unless otherwise required or prohibited by law.

(3) All council members present shall vote on all matters before the city council except on those matters on which a council member announces a conflict of interest or the city attorney determines there is a conflict of interest.

Section 3.08 – Appropriations.

(1) Pursuant to Section 1.01, the council shall have full authority to make or reduce appropriations as deemed necessary in accordance with general law.

(2) The city manager shall have authority to transfer unencumbered appropriation balances within a department, office, or agency. The council may transfer

part or all of any unencumbered appropriation balance from one department, office, or agency to another.

ARTICLE IV – ADMINISTRATIVE

Section 4.01 - City Manager.

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

Section 4.02 - Appointment; Removal; Residency; Compensation.

(1) *Appointment.* The council shall appoint a city manager by a vote of five of the seven council members. The city manager shall serve at the will of the council and shall not be given a fixed term by resolution, ordinance, contract, or otherwise.

(2) *Removal.* The council may remove the city manager, by the affirmative vote of at least four members of the council. Upon request by the city manager, to be made within 5 days after receipt of written notification of such vote, a public hearing shall be held within 10 days after receipt of such request. After such hearing, the council by affirmative vote of at least four council members shall decide whether to reconsider its previous action.

(3) *Residency.* The manager need not be a resident of the city or state at the time of the manager's appointment, but may reside outside the city while in office only with the approval of the council.

(4) *Compensation.* The compensation of the city manager shall be fixed by the council.

Section 4.03 – Powers and Duties of the City Manager

The city manager shall:

(1) Appoint, suspend, demote, or dismiss any city employee under the city manager's jurisdiction in accordance with law, and may authorize any department head to exercise these powers with respect to subordinates in that department.

(2) Direct and supervise the administration of all departments of the city except the office of the city attorney, and shall attend all city council meetings unless excused by the council, and shall have the right to take part in discussions, but not vote.

(3) See that all laws, charter provisions, ordinances, resolutions, and other acts of the council subject to enforcement are faithfully executed.

(4) Submit the annual budget, budget message, and capital program to the council and shall keep the council fully advised as to the financial condition and future needs of the city, and shall make such recommendations to the council concerning the affairs of the city as the city manager deems appropriate.

(5) Shall designate a qualified city employee to exercise the powers and perform the duties of city manager during any temporary absence or disability of the city manager. The council may revoke such designation at any time and appoint another qualified person, other than a currently seated council member, to serve as acting city manager.

(6) Shall appoint an employee to serve as city clerk who shall give notice of public meetings, keep a journal of city council proceedings, attest documents, and perform other duties as assigned.

Section 4.04 - City Attorney.

There shall be a city attorney, appointed by council, who shall serve as chief legal advisor to the council and city administrators and shall represent the city in all legal

proceedings and perform such other related duties, as the council may deem necessary. The city attorney may be full time or part time or on retainer as the council may deem necessary. If the position of city attorney is full time, the provisions of section 4.02 applicable to the city manager shall be equally applicable to the city attorney.

ARTICLE V. - NOMINATIONS AND ELECTIONS

Section 5.01 - Electors.

Any person who is a resident of the city, who has qualified as an elector of this state, and who registers as prescribed by law, shall be an elector of the city.

Section 5.02 - Nonpartisan Elections.

All elections shall be conducted on a nonpartisan basis without any designation of political party affiliation.

Section 5.03 – Qualifying.

Each candidate for city council shall be a qualified elector of the city and must have been a resident of the city for at least one year prior to qualifying. To qualify as a candidate, petitions shall be obtained from and submitted to the city manager or designee, at a time established by ordinance, and shall contain signatures of qualified electors of the city equal to one (1) percent of the total number of city electors registered in the last general election. Each candidate's nominating petition must be accompanied by a certification of the Collier County Supervisor of Elections that the candidate had sufficient petitions signed by qualified voters of the city.

Section 5.04 - Form of Ballots.

The city council shall prescribe the form of the ballot by ordinance.

Section 5.05- Elections.

(1) The regular municipal election shall be held on the second Tuesday in March of even numbered years and shall be by mail ballot except in presidential primary years when the election shall be held concurrently with the state primary election, unless the state primary election is changed from March to another month.

(2) At all elections the qualifying candidates receiving the highest number of votes cast shall be elected.

(3) Those persons certified as duly elected shall take office at Noon on the Monday following their election.

(4) Special elections, when required, shall be scheduled by the council at such times and in such manner as shall be consistent with this charter.

Section 5.06 - Canvass of Elections.

For the canvass of votes for any election held pursuant to this charter, except for an election held concurrently with any regular state or countywide election, the canvassing board shall be composed of the mayor or designee if mayor is opposed or incapacitated, the city manager, and the city attorney.

Section 5.07 – Recall.

The qualified electors of the city shall have the power to recall and to remove any elected official as prescribed by Section 100.361(9) of the Florida Statutes, or as subsequently amended.

Section 5.08 – Adoption of Florida Election Code.

All elections required under any article or section of this charter shall be conducted in accordance with the provisions of the Florida Election Code in its entirety and as it is subsequently amended, except as otherwise provided in this charter.

ARTICLE VI – INITIATIVE, REFERENDUM, RECALL

Section 6.01 – Initiative and Referendum.

(1) Ten percent (10%) of the qualified electors of the city shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, provided that such power shall not extend to the budget or capital program or to any ordinances relating to appropriations of money, levy of taxes, or salaries of city officers or employees, but shall extend to an ordinance providing any single capital expenditure in excess of \$250,000. If the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next general election, or, in council's discretion, at a special election.

(2) A minimum of five (5) electors may commence initiative or referendum proceedings by filing with the city manager or other designated official, an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the city manager or other official designated by the council shall, at the committee's request, issue appropriate blank petitions to the petitioner's committee at the committee's expense.

Section 6.02 - Petition.

(1) *Number of Signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least 10 percent of the total number of qualified voters as of the last regular city election.

(2) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be followed by the printed name and current street address of the person signing and the date on which the petition was signed. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Petitions must be accompanied by certification of the Collier County Supervisor of Elections as to the number of petitions signed by qualified voters of the city. There can be only one signature per petition form.

(3) *Time for Filing Referendum Petitions.* Referendum petitions must be filed within 45 days after adoption by the council of the ordinance sought to be reconsidered.

Section 6.03 - Procedure for Filing.

(1) *Process for Petitioning.* City initiative petition proceedings shall commence only after petitioners have filed appropriate papers with the city manager forming a political action committee as required by the general election laws of the State of Florida. The format and content of the petition to be circulated shall conform to the requirements of general law for amending municipal charters and the general election laws and administrative rules for initiative petitions. Prior to circulation of any petition, it shall be submitted to the city attorney for review of the petition's format for technical sufficiency. The city attorney shall provide written comment of that review within seven (7) days. No review as to the legal sufficiency of the proposed amendment's text is to be undertaken by the city attorney. The number of valid voter signatures are as provided in section 166.031, Florida Statutes. Petitions for amendments of the city charter or proposing ordinances for the city shall be received and considered by council only if accompanied by a certificate from the County's Supervisor of Elections as to the number of valid city electors thereon.

(2) Within twenty (20) business days after certification of the registered voters is received from the Supervisor of Elections, the city manager or other official designated by the council shall complete a certificate as to its sufficiency, or, if it is insufficient, specifying the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in section 6.05. No petitions shall be circulated which are deficient as to form or compliance with section 6.05 pursuant to the written review by the city attorney in subsection (1) of this section. If the number of signatures is insufficient, the council shall notify the committee filing the petition and allow thirty (30) additional days for filing of additional petition papers, at the end of which time the sufficiency or insufficiency of the petition shall be finally determined.

Section 6.04 - Referendum Petition; Suspension of Effect of Ordinance.

When a referendum petition is filed with the city manager or other official designated by the council and deemed sufficient, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) The petitioner's committee withdraws the petition;
- (2) The council repeals the ordinance; or
- (3) After a vote of the city electors on the ordinance has been certified.

Section 6.05 - Action on Petitions.

(1) *Action by Council.* Once the certification of valid city electors is received, council shall take appropriate action addressing the sufficiency of the petition pursuant to section 166.031, Florida Statutes. If the petition is sufficient, council shall schedule the item for an election or, if appropriate under section 6.02 of this charter, council may repeal or amend an existing ordinance thereby negating the need for an election. The council, in

its discretion, may schedule the matter at either the next city election or a special election. If the petition is to repeal an ordinance, council shall determine whether or not to repeal or amend the existing ordinance at the next regularly scheduled council meeting following the determination of petition sufficiency. If council, in its discretion, determines not to amend or repeal the ordinance petitioned for repeal, a special election shall be called not less than ninety (90) days from the date of determination of petition sufficiency. The special election on the repeal of an ordinance shall be by mail ballot unless such election can be scheduled concurrently with a city, county, state, or federal election occurring within that time period.

(2) *Submission to Voters.* If council decides a special election is to be held, it shall be conducted by mail ballot not less than ninety (90) days from the date of council's determination of the need for a special election if there is no intervening city, county, state or federal election on which this matter could be placed. Passage of the times provided in subsection (1) without action by the council shall be considered rejection, refusal, or declination. Copies of the proposed ordinance shall be made available to the voters – either at the polls or by mail ballot, whichever is appropriate. Any petition rejected by the voters may not be submitted again for one year. If repeal of a law is rejected by the voters, the law shall not again be suspended until repeal is supported by the voters or the council repeals it.

(3) *Withdrawal of Petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fortieth day preceding the day scheduled for a vote of the city by filing with the city manager or other official designated by the council a request for withdrawal signed by at least four members of the petitioner's committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings

thereon shall be terminated. Any and all costs, including labor, associated with the preparation and acquisition of supplies for the conduct of an election scheduled, but subsequently canceled because of the withdrawal of the petition, shall be reimbursed by the city to the Supervisor of Elections in full.

Section 6.06 - Results of Election.

(1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

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

ARTICLE VII – GENERAL PROVISION

Section 7.01 - Charter Amendment.

This charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, Chapter 166, Florida Statutes, or its successor. The form, content, and certification of any petition to amend shall be established by ordinance.

Section 7.02 - Code of Ethics.

Public officers, employees, members of licensing or advisory boards, and candidates shall conform to the “Code of Ethics for Public Officials and Employees,” Part III of chapter 112, Florida Statutes.

ARTICLE VII – TRANSITION, SEVERABILITY, EFFECTIVE DATE

Section 8.01 – County Ordinances and Services During Transition Period.

(1) Pursuant to Article VIII of the Florida Constitution, the ordinances, rules, and regulations of Collier County shall continue to be in effect within the boundaries of the City of Marco Island, except that a county ordinance, rules, or regulation in conflict with an ordinance, rule, or regulation of the City of Marco Island shall not be effective to the extent of such conflict. Any existing Collier County ordinances, rules, and regulations, as of August 29, 1997, shall not be altered, changed, rescinded, or added to, nor shall any variance be granted thereto insofar as such action would affect the City of Marco Island, without the approval of the city council.

Section 8.02 – Effect of Incorporation on Certain Existing Indebtedness.

Nothing in this act shall affect the obligation of the city, or any property owners therein, for their rightful share of any indebtedness incurred through the Collier County Public Park and Recreation Municipal Service Taxing Unit or the Marco Water and Sewer District in existence and legally due as of the date of incorporation.

Section 8.03 – Severability.

If any article, section, subsection, sentence, clause, or provision of this charter or the application thereof shall be held invalid for any reason, the remainder of the charter and any ordinances or regulations made thereunder shall remain in full force and effect.

Section 8.04 – Effective Date.

This charter shall take effect upon the approval of a majority of the registered electors of the city voting in a referendum election.

Exhibit "A"

PROPOSED CHARTER – CITY OF MARCO ISLAND

ARTICLE I – INCORPORATION; POWERS

Section 1.01 – Incorporation.

There is hereby created and confirmed a municipal corporation, established August 27, 1997, in Collier County, Florida, by and under the name of the City of Marco Island, which henceforth shall comprise and include the lands in said county hereinafter described, and which city shall have the jurisdiction, powers, rights, and privileges set forth in this Charter.

Section 1.02 – Municipal Powers.

(1) All powers possible are granted to the city under the Constitution and the laws of the State of Florida. The city shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services. The city may exercise any power for municipal purposes unless expressly prohibited by law. The powers of the city shall be liberally construed in favor of the city.

Section 1.03 – Expenditure Limitations.

Notwithstanding section 1.02 above, operating expenditures shall be limited to an increase from the prior year's expenditures of three percent (3%) plus the then-current Federal C.O.L.A. (Department of Labor, Bureau of Statistics, Consumer Price Index) per annum following the third full year of incorporation; except that this shall not apply to: emergencies; capital expenditures as provided in section 6.01; expenditures relating to projects or programs funded by grants, gifts, or impact fees; and expenditures, including

debt service payments, relating to utility or other enterprise funds which are intended to be self-supporting for governmental accounting purposes.

Section 1.04 – Dissolution.

The charter of the city may not be revoked except in accordance with the dissolution procedures of Chapter 165, Florida Statutes.

ARTICLE II – CORPORATE LIMITS

Section 2.01 – Description of Corporate Limits.

The following shall constitute the Corporate Limits of the City of Marco Island:

A Corporate Line lying offshore from Marco Island, in portions of Township 52 South, Range 26 East, Collier County, Florida, which line is described as follows: From the corner common to Sections 17, 18, 19, and 20, Township 52 South, Range 26 East, run Westerly along the line common to said Sections 18 and 19 to a point 2,640 feet offshore in the Gulf of Mexico from the Mean High Tide Line Section 18 and the point of beginning. From said point of beginning, run Southerly 2,640 feet offshore from the Mean High Tide Line of Marco Island, past the Southerly point of said Island to the mouth of Caxambas Pass, thence run Northeasterly in the waters of Caxambas Pass to the center line of the channel of said Caxambas Pass; thence run Easterly along the centerline of the channel of Caxambas Pass, to a point intersecting a marked channel running Northerly towards Barfield Bay; thence run Northerly along the centerline of said channel to a point 300 feet offshore in Barfield Bay from the Mean High Tide Line of the Easterly end of lands formerly known as J. M. Barfield Subdivision, thence run Northerly, Easterly, and Southerly, 300 feet offshore in Barfield Bay from the Mean High Tide Line of Marco Island to intersection with the centerline of Blue Hill Creek; thence run Southeasterly along the centerline of Blue Hill Creek to a point 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island; thence continue Northerly, Easterly, and Southerly 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island to centerline of the aforementioned Blue Hill Creek, thence run Northeasterly along the centerline of Blue Hill Creek, but to a point intersecting the line common to Range 26 East and Range 27 East, Township 52 South, Collier County, Florida; thence run Northerly along the line common to said Range 26 and 27, but to a point intersecting the centerline of the channel of the Big Marco River, thence Northerly, Northwesterly, and Westerly along the centerline of the aforementioned Big Marco River and out

through the marked Capri Pass, being 2,640 feet offshore from the Mean High Tide Line of Marco Island; thence run Southwesterly, Southerly, and Southeasterly 2,640 feet offshore from the Mean High Tide Line of Marco Island to the point of Beginning lying along the East-West line common to Sections 18 and 19, Township 52 South; Range 26 East.

ARTICLE III – LEGISLATIVE

Section 3.01 – City Council.

(1) All legislative authority shall be vested in a seven-member city council elected from and representing the city at-large.

(2) If at any time subsequent to the initial election, the electorate and/or the city council conclude that the demographics of the city warrant that some of the city council seats should represent certain city districts while still being voted on by all the city electors, such changes can be effected as provided for in the Municipal Home Rules Powers Act, chapter 166, Florida Statutes, or as provided for in section 6.01 and section 7.01 of this charter.

Section 3.02 – Terms.

(1) The term of office shall be four years and no member shall serve more than two full consecutive terms.

(2) The terms shall be staggered such that elections to fill ^{four}~~three~~ seats shall be conducted during presidential primary election years, and ^{three}~~four~~ seats during non-presidential primary election years.

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Section 3.03 – Seats.

There shall be seven separate council seats designated as seat one through seat seven.

Section 3.04 – Compensation.

(1) The salary of the chair shall be \$9,000 per year and the salary of each council member shall be \$6,000 per year, payable in equal monthly installments.

(2) An ordinance may be adopted which establishes, increases, or decreases compensation of the city council members. However, in no event shall any establishment of compensation or increase in compensation become effective with regard to any member of council throughout the remainder of that council member(s) term of office.

(3) The city council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

Section 3.05 - General Provisions.

(1) The council shall elect a mayor and vice mayor to serve for a term of one year, at the first meeting following the council election and the annual anniversary thereafter.

(2) The mayor shall preside at meetings of the council, shall have a voice and vote in its proceedings, and shall be recognized as head of city government for ceremonial purposes and for purposes of military law.

(3) The vice-mayor, in the absence of the mayor, shall have all the power and prerogative to perform the duties of the mayor.

(4) No former council member shall hold any compensated city position until four years after the expiration of the term for which the council member was elected.

(5) No council member shall direct or request, or participate in, the appointment or removal by the city manager of any employee in the administrative service of the city. Any council member in violation of this provision shall be subject to recall.

(6) Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any council member violating the provisions of this section shall be subject to recall.

Section 3.06 – Vacancies.

(1) The seat held by a council member shall become vacant upon resignation, death, removal from office as authorized by law, or by forfeiture of office.

(2) A Council member shall forfeit the office held upon determination of the council by a majority vote of the council members seated, that the council member:

- (a) Ceases to maintain permanent residence in the city or otherwise ceases to be a qualified elector of the city.
- (b) Is absent from six regular meetings of council during any calendar year, or for any four consecutive regular meetings of council, whether or not during the same calendar year, unless excused by a majority vote of the council.
- (c) Is disabled and unable to fulfill the responsibility of the office.

(3) A vacancy on the council shall be filled as follows:

- (a) If a vacancy occurs and the remainder of the unexpired term is 28 months or less, the remaining council members shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the council members seated, appoint a person to fill the vacancy for the remainder of the unexpired term.

- (b) If the remainder of the unexpired term exceeds 28 months, the remaining council members shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the council members seated, appoint a person to fill the vacancy until the next regularly scheduled city election at which the balance of the term for the seat shall be filled in accordance with Article V.
- (c) If four or more council vacancies occur at one time, the Governor shall fill such vacancies until successors are chosen at the next regular election.

Section 3.07 – Meetings and Procedures.

(1) The council shall schedule a minimum of twelve (12) regular meetings each year. Special meetings may be held at the call of the mayor or a majority of members and, except in an emergency, all meetings shall be upon at least 24 hours notice to each member and the public.

(2) A majority of the council shall constitute a quorum. No action by the council shall be valid unless adopted by the affirmative vote of at least a majority of council members present and voting at the city council meeting. Nothing herein shall prohibit the city council from enacting an ordinance which provides for a supermajority vote unless otherwise required or prohibited by law.

(3) All council members present shall vote on all matters before the city council except on those matters on which a council member announces a conflict of interest or the city attorney determines there is a conflict of interest.

Section 3.08 – Appropriations.

(1) Pursuant to Section 1.01, the council shall have full authority to make or reduce appropriations as deemed necessary in accordance with general law.

(2) The city manager shall have authority to transfer unencumbered appropriation balances within a department, office, or agency. The council may transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

ARTICLE IV – ADMINISTRATIVE

Section 4.01 - City Manager.

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

Section 4.02 - Appointment; Removal; Residency; Compensation.

(1) *Appointment.* The council shall appoint a city manager by a vote of five of the seven council members. The city manager shall serve at the will of the council and shall not be given a fixed term by resolution, ordinance, contract, or otherwise.

(2) *Removal.* The council may remove the city manager, by the affirmative vote of at least four members of the council. Upon request by the city manager, to be made within 5 days after receipt of written notification of such vote, a public hearing shall be held within 10 days after receipt of such request. After such hearing, the council by affirmative vote of at least four council members shall decide whether to reconsider its previous action.

(3) *Residency.* The manager need not be a resident of the city or state at the time of the manager's appointment, but may reside outside the city while in office only with the approval of the council.

(4) *Compensation.* The compensation of the city manager shall be fixed by the council.

Section 4.03 – Powers and Duties of the City Manager

The city manager shall:

(1) Appoint, suspend, demote, or dismiss any city employee under the city manager's jurisdiction in accordance with law, and may authorize any department head to exercise these powers with respect to subordinates in that department.

(2) Direct and supervise the administration of all departments of the city except the office of the city attorney, and shall attend all city council meetings unless excused by the council, and shall have the right to take part in discussions, but not vote.

(3) See that all laws, charter provisions, ordinances, resolutions, and other acts of the council subject to enforcement are faithfully executed.

(4) Submit the annual budget, budget message, and capital program to the council and shall keep the council fully advised as to the financial condition and future needs of the city, and shall make such recommendations to the council concerning the affairs of the city as the city manager deems appropriate.

(5) Shall designate a qualified city employee to exercise the powers and perform the duties of city manager during any temporary absence or disability of the city manager. The council may revoke such designation at any time and appoint another qualified person, other than a currently seated council member, to serve as acting city manager.

(6) Shall appoint an employee to serve as city clerk who shall give notice of public meetings, keep a journal of city council proceedings, attest documents, and perform other duties as assigned.

Section 4.04 - City Attorney.

There shall be a city attorney, appointed by council, who shall serve as chief legal advisor to the council and city administrators and shall represent the city in all legal proceedings and perform such other related duties, as the council may deem necessary. The city attorney may be full time or part time or on retainer as the council may deem necessary. If the position of city attorney is full time, the provisions of section 4.02 applicable to the city manager shall be equally applicable to the city attorney.

ARTICLE V. - NOMINATIONS AND ELECTIONS

Section 5.01 - Electors.

Any person who is a resident of the city, who has qualified as an elector of this state, and who registers as prescribed by law, shall be an elector of the city.

Section 5.02 - Nonpartisan Elections.

All elections shall be conducted on a nonpartisan basis without any designation of political party affiliation.

Section 5.03 – Qualifying.

Each candidate for city council shall be a qualified elector of the city and must have been a resident of the city for at least one year prior to qualifying. To qualify as a candidate, petitions shall be obtained from and submitted to the city manager or designee, at a time established by ordinance, and shall contain signatures of qualified electors of the city equal to one (1) percent of the total number of city electors registered in the last general election. Each candidate's nominating petition must be accompanied by a

certification of the Collier County Supervisor of Elections that the candidate had sufficient petitions signed by qualified voters of the city.

Section 5.04 - Form of Ballots.

The city council shall prescribe the form of the ballot by ordinance.

Section 5.05- Elections.

(1) The regular municipal election shall be held on the second Tuesday in March of even numbered years and shall be by mail ballot except in presidential primary years when the election shall be held concurrently with the state primary election, unless the state primary election is changed from March to another month.

(2) At all elections the qualifying candidates receiving the highest number of votes cast shall be elected.

(3) Those persons certified as duly elected shall take office at Noon on the Monday following their election.

(4) Special elections, when required, shall be scheduled by the council at such times and in such manner as shall be consistent with this charter.

Section 5.06 - Canvass of Elections.

For the canvass of votes for any election held pursuant to this charter, except for an election held concurrently with any regular state or countywide election, the canvassing board shall be composed of the mayor or designee if mayor is opposed or incapacitated, the city manager, and the city attorney.

Section 5.07 – Recall.

The qualified electors of the city shall have the power to recall and to remove any elected official as prescribed by Section 100.361(9) of the Florida Statutes, or as subsequently amended.

Section 5.08 – Adoption of Florida Election Code.

All elections required under any article or section of this charter shall be conducted in accordance with the provisions of the Florida Election Code in its entirety and as it is subsequently amended, except as otherwise provided in this charter.

ARTICLE VI – INITIATIVE, REFERENDUM, RECALL

Section 6.01 – Initiative and Referendum.

(1) Ten percent (10%) of the qualified electors of the city shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, provided that such power shall not extend to the budget or capital program or to any ordinances relating to appropriations of money, levy of taxes, or salaries of city officers or employees, but shall extend to an ordinance providing any single capital expenditure in excess of \$250,000. If the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next general election, or, in council's discretion, at a special election.

(2) A minimum of five (5) electors may commence initiative or referendum proceedings by filing with the city manager or other designated official, an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the city manager or other official designated by the council shall, at the committee's request, issue appropriate blank petitions to the petitioner's committee at the committee's expense.

Section 6.02 - Petition.

(1) *Number of Signatures.* Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least 10 percent of the total number of qualified voters as of the last regular city election.

(2) *Form and Content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be followed by the printed name and current street address of the person signing and the date on which the petition was signed. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Petitions must be accompanied by certification of the Collier County Supervisor of Elections as to the number of petitions signed by qualified voters of the city. There can be only one signature per petition form.

(3) *Time for Filing Referendum Petitions.* Referendum petitions must be filed within 45 days after adoption by the council of the ordinance sought to be reconsidered.

Section 6.03 - Procedure for Filing.

(1) *Process for Petitioning.* City initiative petition proceedings shall commence only after petitioners have filed appropriate papers with the city manager forming a political action committee as required by the general election laws of the State of Florida. The format and content of the petition to be circulated shall conform to the requirements of general law for amending municipal charters and the general election laws and administrative rules for initiative petitions. Prior to circulation of any petition, it shall be submitted to the city attorney for review of the petition's format for technical sufficiency. The city attorney shall provide written comment of that review within seven (7) days. No review as to the legal sufficiency of the proposed amendment's text is to be undertaken by

the city attorney. The number of valid voter signatures are as provided in section 166.031, Florida Statutes. Petitions for amendments of the city charter or proposing ordinances for the city shall be received and considered by council only if accompanied by a certificate from the County's Supervisor of Elections as to the number of valid city electors thereon.

(2) Within twenty (20) business days after certification of the registered voters is received from the Supervisor of Elections, the city manager or other official designated by the council shall complete a certificate as to its sufficiency, or, if it is insufficient, specifying the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in section 6.05. No petitions shall be circulated which are deficient as to form or compliance with section 6.05 pursuant to the written review by the city attorney in subsection (1) of this section. If the number of signatures is insufficient, the council shall notify the committee filing the petition and allow thirty (30) additional days for filing of additional petition papers, at the end of which time the sufficiency or insufficiency of the petition shall be finally determined.

Section 6.04 - Referendum Petition; Suspension of Effect of Ordinance.

When a referendum petition is filed with the city manager or other official designated by the council and deemed sufficient, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) The petitioner's committee withdraws the petition;
- (2) The council repeals the ordinance; or
- (3) After a vote of the city electors on the ordinance has been certified.

Section 6.05 - Action on Petitions.

(1) *Action by Council.* Once the certification of valid city electors is received, council shall take appropriate action addressing the sufficiency of the petition pursuant to section 166.031, Florida Statutes. If the petition is sufficient, council shall schedule the item for an election or, if appropriate under section 6.02 of this charter, council may repeal or amend an existing ordinance thereby negating the need for an election. The council, in its discretion, may schedule the matter at either the next city election or a special election. If the petition is to repeal an ordinance, council shall determine whether or not to repeal or amend the existing ordinance at the next regularly scheduled council meeting following the determination of petition sufficiency. If council, in its discretion, determines not to amend or repeal the ordinance petitioned for repeal, a special election shall be called not less than ninety (90) days from the date of determination of petition sufficiency. The special election on the repeal of an ordinance shall be by mail ballot unless such election can be scheduled concurrently with a city, county, state, or federal election occurring within that time period.

(2) *Submission to Voters.* If council decides a special election is to be held, it shall be conducted by mail ballot not less than ninety (90) days from the date of council's determination of the need for a special election if there is no intervening city, county, state or federal election on which this matter could be placed. Passage of the times provided in subsection (1) without action by the council shall be considered rejection, refusal, or declination. Copies of the proposed ordinance shall be made available to the voters – either at the polls or by mail ballot, whichever is appropriate. Any petition rejected by the voters may not be submitted again for one year. If repeal of a law is rejected by the voters,

the law shall not again be suspended until repeal is supported by the voters or the council repeals it.

(3) *Withdrawal of Petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fortieth day preceding the day scheduled for a vote of the city by filing with the city manager or other official designated by the council a request for withdrawal signed by at least four members of the petitioner's committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated. Any and all costs, including labor, associated with the preparation and acquisition of supplies for the conduct of an election scheduled, but subsequently canceled because of the withdrawal of the petition, shall be reimbursed by the city to the Supervisor of Elections in full.

Section 6.06 - Results of Election.

(1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

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

ARTICLE VII – GENERAL PROVISION

Section 7.01 - Charter Amendment.

This charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, Chapter 166, Florida Statutes, or its successor. The form, content, and certification of any petition to amend shall be established by ordinance.

Section 7.02 - Code of Ethics.

Public officers, employees, members of licensing or advisory boards, and candidates shall conform to the “Code of Ethics for Public Officials and Employees,” Part III of chapter 112, Florida Statutes.

ARTICLE VII – TRANSITION, SEVERABILITY, EFFECTIVE DATE

Section 8.01 – County Ordinances and Services During Transition Period.

(1) Pursuant to Article VIII of the Florida Constitution, the ordinances, rules, and regulations of Collier County shall continue to be in effect within the boundaries of the City of Marco Island, except that a county ordinance, rules, or regulation in conflict with an ordinance, rule, or regulation of the City of Marco Island shall not be effective to the extent of such conflict. Any existing Collier County ordinances, rules, and regulations, as of August 29, 1997, shall not be altered, changed, rescinded, or added to, nor shall any variance be granted thereto insofar as such action would affect the City of Marco Island, without the approval of the city council.

Section 8.02 – Effect of Incorporation on Certain Existing Indebtedness.

Nothing in this act shall affect the obligation of the city, or any property owners therein, for their rightful share of any indebtedness incurred through the Collier County

Public Park and Recreation Municipal Service Taxing Unit or the Marco Water and Sewer District in existence and legally due as of the date of incorporation.

Section 8.03 – Severability.

If any article, section, subsection, sentence, clause, or provision of this charter or the application thereof shall be held invalid for any reason, the remainder of the charter and any ordinances or regulations made thereunder shall remain in full force and effect.

Section 8.04 – Effective Date.

This charter shall take effect upon the approval of a majority of the registered electors of the city voting in a referendum election.