



TOWN OF MELBOURNE BEACH

CHARTER REVIEW COMMITTEE

**AGENDA PACKET
FEBRUARY 18, 2025**

Town of Melbourne Beach

**CHARTER REVIEW COMMITTEE
TUESDAY, FEBRUARY 18, 2025, 6:00 P.M.
COMMUNITY CENTER – 509 OCEAN AVENUE**

PUBLIC NOTICE AGENDA

Board Members:

Chairman James Simmons
Vice Chairman Bruce Larson
Member Kathy Ivers-Osthus
Member Charles Leps Jr
Member Jessica Martinez

Staff Members:

Town Manager Elizabeth Mascaro
Town Clerk Amber Brown
Town Attorney Ryan Knight

1. **Call to Order**
2. **Roll Call with Determination of Quorum**
3. **Approval of minutes**
 - A. February 10, 2025 minutes
4. **Public Comment**
5. **New Business**
 - A. Charter review Articles 2 and 3
6. **Adjournment**

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, if an individual decides to appeal any decision made by the Board of Adjustment with respect to any matter considered at this meeting, a verbatim transcript of the proceedings may be required and the individual may need to ensure that a verbatim transcript of the proceedings is made.

One or more Commission members may be present at this meeting.

In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations to participate in this meeting shall, at least 48 hours prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860.

Charter

Be It Enacted by the Town Commission of the Town of Melbourne Beach, County of Brevard, State of Florida:

The Charter of the Town of Melbourne Beach, originally incorporated by Chapter 9833, Laws of Florida, Acts of 1923, as subsequently amended, is amended and revised to read as follows:

ARTICLE I. ESTABLISHMENT: BOUNDARIES

Sec. 1.01. REPEAL OF PRESENT CHARTER.

The existing Charter of the Town of Melbourne Beach, Brevard County, State of Florida, is hereby abolished. The title, rights, and ownerships of property, uncollected taxes, dues, claims, judgments, decrees, and choses in action, held or owned by the Town of Melbourne Beach shall pass to and be vested in the municipal corporation organized under this act to succeed the municipality abolished. No obligation or contracts of the said municipality, including bonds heretofore issued, shall be impaired or voided by this act, but such debts and obligations shall pass to, and be binding upon, the new municipality which is hereby organized and created. All officers heretofore elected or appointed, and holding office under the said municipality shall continue to hold their respective office and to discharge the respective duties thereof until their successors are elected and confirmed under the provisions of this act and all existing ordinances of the said municipality, not in conflict with the provisions of this act, shall continue in effect and unimpaired until repealed, amended, or modified by the municipality which is hereby organized and created.

(Adopted by electorate 11-6-73)

Sec. 1.02. CREATION OF NEW CHARTER.

The inhabitants of the Town of Melbourne Beach, Florida, shall continue to be a body politic and corporate to be known and designated as the "Town of Melbourne Beach, Florida" (hereinafter to be known as the "Town"); and as such shall have perpetual succession, shall sue and be sued, plead and be impleaded, and shall have the use of a common seal.

The Town shall have all powers possible for a Town to have under the Constitution and the laws of the State of Florida as fully and completely as if specifically enumerated under this Charter, in addition to any powers specifically so enumerated.

The title, rights, and ownership of property, uncollected taxes, dues, claims, judgments, decrees, and choses in action, held or owned by the Town shall continue to be vested in the municipal corporation under this act. No obligation or contracts of the said municipality,

including bonds heretofore issued, shall be impaired or voided by this act, but such debts and obligations shall be binding upon the municipality.

All existing ordinances of the said municipality, not in conflict with the provisions of this act, shall continue in effect and be unimpaired until repealed, amended, or modified in accordance with the provisions of this Charter.

(Adopted by electorate 11-6-73)

Sec. 1.03. CONSTRUCTION OF POWERS: RETENTION OF FORMER POWERS.

The powers of the Town shall be construed liberally in favor of the Town, and the specification of particular powers shall not be construed as limiting in any way the general powers possessed by the Town. The Town shall have implied and incidental powers to exercise those powers enumerated herein or granted by general law.

(Adopted by electorate 11-6-73)

Sec. 1.04. TRANSITION OF COMMISSIONERS' TERMS OF OFFICE AND DUTIES.

Commissioners holding office or duly elected to office at the time of adoption of this Charter shall continue to serve their respective terms of office for which elected. Their duties as established by the previous Charter will no longer pertain, but will be assigned as prescribed under Article II, section 2.10 subsequent. The Vice-Mayor will continue to serve as such until the completion of his or her current term of office, after which time the provisions of this Charter will apply.

(Adopted by electorate 11-6-73)

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Sec. 1.05. BOUNDARIES.

A description of the Town Boundaries shall be on file in the office of the Town Clerk.

(Adopted by electorate 11-6-73)

Sec. 1.06. INTERGOVERNMENTAL RELATIONS.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or other wise, with any one or more states or agencies thereof, other counties or municipalities, or the United States or agencies thereof, to the fullest extent permitted by law, providing, however, all participation involving financial obligations of the Town shall be approved by Ordinance.

(Adopted by electorate 11-6-73)

ARTICLE II. TOWN COMMISSION.

Sec. 2.01. GENERAL POWERS AND DUTIES.

All powers of the Town shall be vested in an elected Commission, except as otherwise provided by law or by this Charter. The Commission shall provide for the exercise by the Town of its municipal powers and for the performance of all duties and obligations imposed on the Town by law.

(Adopted by electorate 11-6-73)

Sec. 2.02. COMPOSITION AND QUALIFICATIONS.

The Commission shall consist of five (5) members elected by the qualified voters of the Town as hereinafter provided. Members of the Town Commission shall have been residents of the Town for at least ~~six (6)~~ twelve (12) months prior to the date of qualification for office, and shall have the qualifications of a Town Elector. The Commission shall consist of five (5) Commissioners: The Mayor elected as such, and four (4) Commissioners-at-Large.

The office of Commission member shall be forfeited whenever a member is finally convicted of a felony ~~or a crime involving moral turpitude, malfeasance, or misfeasance.~~ When a member files for election to or accepts any other elective public office, ~~he or she~~ shall submit his ~~or her~~ resignation. This resignation shall be effective when his ~~or her~~ former office is filled or when he ~~or she~~ accepts an elective office, whichever comes first.

Any qualified elector of the Town who meets the foregoing qualifications may qualify for a Commission seat by presenting to the Town Clerk a petition signed by twenty-five (25) qualified Town electors, and by paying a filing fee, during the qualifying period as established from time to time in the town code of ordinances, and said elector shall submit concurrently therewith a sworn statement of his or her name, address, occupation, and willingness to serve if elected. Until otherwise provided by Town ordinance, the filing fee shall be ten dollars (\$10.00).

The Commission shall be the judge of the qualifications of the candidates for election to the Commission, and for such purpose shall have the powers to subpoena witnesses and require the production of evidence, but the decision of the Commission in any such case shall be subject to review by the courts.

Each person seeking to qualify for election to office as a write-in candidate shall certify under oath to the Town Clerk during the qualifying period as established from time to time in the town code of ordinances the following information:

Name, address, that he possessed all of the qualifications required by law for the office, the name of the office he seeks, and that he will accept the office.

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Failure to qualify as a write-in candidate shall mean that any write-in votes cast for such person shall not be counted.

At the time of certifying under oath the above information, a write-in candidate shall be considered a candidate except that he shall not be entitled to have his name printed on the ballot.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-4-86; Ordinance 2001-01, passed 9-19-01)

Sec. 2.03. TERM OF OFFICE.

(a) Elected Commissioners shall take office at the beginning of the next ~~official~~ regular Town Commission meeting following the municipal election at which they were elected. They shall hold office for a term of three (3) years, or until their successors are elected and ~~qualified~~ certified by the Brevard County Supervisor of Elections, unless:

(1) The individual has been appointed or elected to fulfill the term of a Commissioner-at-Large who has been removed from office other than by means of recall, forfeited the office of Commissioner-at-Large, resigned, or the office has become vacant due to the death of a Commissioner-at-Large. In such event, a successor Commissioner-at-Large shall assume office in the manner set forth in Section 2.04. in this Charter.

(2) The individual has been elected to fulfill the term of a Commissioner-at-Large who has been recalled from said office by the electorate. In such event a newly elected Commissioner-at-Large who is replacing a Commissioner-at-Large recalled from office shall serve a term equal in time to what would have otherwise been the time remaining in the term of the recalled Commissioner-at-Large's term; or

(3) The individual is elected to fill a term otherwise consistent with this Charter.

(b) Neither a commission member or the mayor may qualify for or serve more than two (2) complete consecutive terms and the portion of an unexpired term occurring by reason of a vacancy. Notwithstanding the foregoing, an elected city official, such as a commissioner, who has served the maximum time in office as permitted by this paragraph, may qualify for and be elected to serve in a different city elected office, such as mayor. Further, a commissioner or the mayor who has served the maximum amount of time permitted by this sub-section may again serve on the commission subject to the time and term limitations of this sub-section; provided, that the official has not served on the commission for at least ~~one (1) year (three hundred sixty-five (365) days = one (1) year).~~ eleven (11) months. Any city elected official who resigns within one (1) year (three hundred sixty-five (365) days = one (1) year) before the end of the second consecutive term of office shall be prohibited from qualifying as a candidate for a commission seat in the next regular city election. ~~This paragraph shall be applicable to any commission member or the mayor who, subsequent to the election held on November 2, 2004, has served for two (2) complete consecutive terms and which terms have been served in full after November 2, 2004.~~

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(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-4-86; Amendment adopted by electorate 11-7-89; Amendment adopted by electorate 11-2-04)

Sec. 2.04. VACANCIES ON THE COMMISSION.

A vacancy shall occur upon the death, resignation, removal from office (other than by recall) as authorized by law, or forfeiture of office of a Commission member. When such a vacancy occurs, other than that of Mayor, the remaining Commission members may select, by the affirmative vote of not less than a majority of the remaining membership, a person to fill the vacancy. Such an appointed person shall be a qualified elector in the Town, as specified in this Charter, and shall serve until the next general municipal election, at which time a candidate will be elected to serve a term equal in time to what would have otherwise been the time remaining in the term of the Commissioner-at-Large whose office has become vacant.

In the event the office of Mayor is vacated, the Vice-Mayor assumes the position until the next general municipal election, at which time a candidate will be elected to serve for the remainder of the Mayor's unexpired term, and a person is appointed or elected to fill the office of Commissioner-at-Large held by the Vice-Mayor, all in accordance with the criteria and procedures herein provided. Said individual succeeding to the position of Commissioner-at-Large, formerly held by the Vice-Mayor, shall hold office only until the next general municipal election.

If the Commission shall fail to fill a vacancy on the Commission within thirty (30) days after it occurs, or whenever two (2) or more vacancies shall occur at the same time, the Mayor shall immediately call a special election to fill the vacancy or vacancies. Those elected at the special election will serve a term equal in time to what would have otherwise been the time remaining in the term of the Commissioner-at-Large whose office has become vacant. Among the successful candidates those receiving the largest number of votes shall be declared elected for the longest terms.

In no event shall the Commission consist of more than two (2) commissioners serving on an appointive basis.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-4-86; Amendment adopted by electorate 11-7-89)

Sec. 2.05. PROHIBITION AGAINST EMPLOYMENT.

No Commission member shall hold any other Town office or Town employment during the term for which he was elected to the Commission.

(Adopted by electorate 11-6-73)

Sec. 2.06. COMPENSATION.

The salary of Commission members, together with the manner of payment, shall be established by ordinance and shall be no greater than one (1) percent of the annual Town budget. No increase in salary shall become effective until the next regular Town election.

The Commission may provide that members shall receive their actual and necessary expenses incurred in the performance of their duties.

(Adopted by electorate 11-6-73)

Sec. 2.07. MAYOR.

The Mayor shall qualify and run for office for a term of three (3) years as hereinafter provided. He shall be a voting member of the Commission, the presiding officer of the Commission, and the titular head of the Town government for ceremonial purposes, and for the purpose of civil process. He shall be responsible for civil defense and military law. He shall execute all instruments to which the Town is a party as the Commission shall direct, unless otherwise provided by this Charter or by law.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86)

Sec. 2.08. VICE-MAYOR.

The Vice-Mayor shall be elected annually by the Commissioners from the body of Commissioners-at-Large. Should the office of Mayor fall vacant, in accordance with Section 2.04, the Vice-Mayor would become Mayor until the next general municipal election, at which time a successor would be elected Mayor and the Vice-Mayor temporarily filling the position of Mayor will return without election to a Town Commission seat for the remainder of his or her term. In the absence or disability of the Mayor, the Vice-Mayor shall act temporarily in his stead with full powers to discharge the duties of the office so assumed.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-7-89; Amendment adopted by electorate 11-2-04)

Sec. 2.09. COMMISSIONER-AT-LARGE.

A total of four (4) Commissioners-at-Large shall qualify and run for the four (4) seats. At the November, 1989 election, the two candidates receiving the largest and second largest number of votes shall each be elected to three (3) year terms, while the two candidates receiving the third and fourth largest number of votes shall each be elected to two (2) year terms.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-7-89)

Sec. 2.10. ASSIGNMENT OF DEPARTMENT RESPONSIBILITIES. (Repealed 11-2-04)

Sec. 2.11. COMMISSION MEETING.

The Commission shall meet regularly at the Town Hall or other municipal building at such times and places as it may prescribe, but in no event less than once each month. All Town business meetings of the Commission shall be open to the public where required.

Special meetings limited to the subjects specified in the call may be convened by the Mayor, any one (1) Commission member, or the Town Manager, upon at least twenty-four (24) hours' notice to each member and to the public. The Commission shall provide, by

ordinance, for the holding of an emergency meeting and shall prescribe the means of serving or furnishing notice of emergency meetings. Action taken at emergency meetings must be ratified at the next regularly scheduled meeting of the Town Commission.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86; Amendment adopted by electorate 11-2-04)

Sec. 2.12. LEGISLATIVE PROCEDURE.

Three (3) members of the Commission shall constitute a quorum, but a smaller number may adjourn from day to day. No action of the Commission, except raising a quorum, shall be valid or binding unless adopted by the affirmative vote of at least three (3) members of the Commission. The Commission shall determine its own rules and order of business and shall provide for the keeping of a journal of its proceedings. The journal shall be a public record and shall be open to public inspection. The Commission may prescribe for expulsion of disorderly persons from its meetings.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-2-04)

Sec. 2.13. ORDINANCES AND RESOLUTIONS.

Every proposed ordinance or resolution shall be introduced in the final written or printed form required for adoption. The enacting clause of ordinances shall recite: "Be it enacted by the Town of Melbourne Beach, Florida." No ordinance shall be passed until it has been read at two (2) Commission meetings, not less than one (1) week apart, except that a second reading, other than by title, may be dispensed with upon the unanimous affirmative vote of the Commission members present.

A proposed ordinance may be amended at either meeting. However, no ordinance shall be amended at the second or later reading so as to change its intent without a further complete reading of the affected portion at least one (1) week later. The Commission shall provide for public hearings or for the publication of notice concerning the subject matter of any proposed ordinance or amendment. Ordinances and resolutions shall become effective upon passage unless otherwise specified herein. Every ordinance and resolution shall, upon final passage, be authenticated by the presiding officer and the Town Clerk, and shall be recorded and published as the Commission shall prescribe.

(Adopted by electorate 11-6-73)

Sec. 2.14. ORDINANCES BY REFERENDUM VOTE.

The Commission may submit any proposed ordinance to a referendum vote of the qualified voters without filing a petition request.

(Adopted by electorate 11-6-73)

Sec. 2.15 EMERGENCY ORDINANCES.

Notwithstanding the provisions of the foregoing sections, the Commission may enact emergency ordinances to meet serious public emergencies affecting the welfare of the

Town or its inhabitants. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance. It may be adopted with or without amendment at the meeting at which it is introduced. Emergency ordinances shall expire thirty (30) days after enactment unless sooner specified therein.

(Adopted by electorate 11-6-73)

Sec. 2.16. PUBLIC NOTICE.

Public notices shall be posted and/or published as prescribed by the appropriate Town ordinance.

(Adopted by electorate 11-6-73)

Sec. 2.17. COMMISSION ATTENDANCE AT MEETINGS. (Repealed 11-2-04)

ARTICLE III. GENERAL TOWN ADMINISTRATION

Sec. 3.01. POWERS AND DUTIES OF THE TOWN COMMISSION.

All powers of the Town shall be vested in an elected Commission, except as otherwise provided by this Charter or by law. The Town Commission shall be responsible to the citizens of Melbourne Beach for the proper functioning of all Town affairs and to that end, subject to the provisions of this Charter, shall have power and are required to:

(a) Appoint, and when necessary for the good of the Town, suspend or remove, the Town Manager, Town Clerk or Town Attorney, or members of any board, commission or agency, who are appointed by the Town Commission.

(b) Approve any additions or deletions of staff positions upon the recommendation of the Town Manager. Such recommendations of the Town Manager shall be made in conjunction with the proposed budget for the upcoming year, or may be made at any other time if deemed necessary.

(c) Provide policy direction to, and exercise control over, the Town Manager as may be required in his role as administrative head of the Town.

(d) Approve an annual Town budget and any amendments to the budget, together with such other fiscal reports and programs as may be required, and periodically review the financial status of the Town relative to the current budget.

(e) Provide Town representation on intragovernmental groups when such groups are composed principally of elected officials or when such representation is deemed advisable by the Commission.

(f) Perform such other duties as may be prescribed by ordinance or resolution consistent with the concept of management of the Town expressed in this Charter.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86)

Sec. 3.02. ADMINISTRATIVE UNITS OF TOWN GOVERNMENT.

(a) The Commission by ordinance may establish, abolish or reorganize, and prescribe the composition, duties and functions of any Town departments, agencies and offices.

(b) The Town Manager, as provided under Section 3.03, with the approval of the Commission, may be the head of any department. The Town Commission may by ordinance authorize the Town Manager to create, abolish or reorganize any departments or positions, and further to delegate any of the duties and authorities of the Town Manager to said departments or positions. The Town Manager shall remain responsible for proper execution of all the functions of the Town Manager whether or not such functions have been delegated by the Town Manager to other departments or positions.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86)

Sec. 3.03. OFFICE OF THE TOWN MANAGER.

(a) This office shall be headed by a Town Manager, who shall be appointed by the Town Commission on the basis of his or her executive and administrative qualifications. The Town Manager shall be the Chief Administrative Officer of the Town, and shall be directly responsible to the Commission for all Town affairs placed in his or her charge by this Charter or by ordinance or resolution. The Town Manager when necessary shall appoint, suspend, demote or dismiss any Town employee under his or her jurisdiction in accordance with the law and the personnel rules, and may authorize any Department Head to exercise these powers with respect to subordinates in that department. The Town Manager shall direct and supervise the administration of all departments of the Town except the Offices Office of Town Clerk and Town Attorney, and shall attend all Commission meetings unless excused by the Commission, and shall have the right to take part in discussions, but not vote. He or she shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the Commission subject to enforcement by him or her are faithfully executed. The Town Manager shall also prepare and submit the annual budget, budget message, and capital program to the commission, and shall keep the Commission fully advised as to the financial condition and future needs of the Town, and shall be responsible for adhering to the approved budget. The Town Manager shall make such recommendations to the Commission concerning the affairs of the Town as he or she deems advisable. The Town Manager shall endorse all instruments in writing in which the Town is interested, sign Town checks as authorized by the Town Commission, and execute contracts on behalf of the Town, unless the Commission shall otherwise provide. The Town Manager shall by letter designate an Acting Town Manager to exercise his or her powers and perform his or her duties during temporary absences or disability of the Town

Manager. The Commission may revoke such designation at any time and appoint another eligible person to serve as Acting Town Manager.

(b) Except for the purpose of inquiries and investigations, the Town Commission or its members shall not give orders or directions to any officer or employee of the Town who is under the direction and supervision of the Town Manager, and shall deal with such officers and employees only through the Town Manager.

(Amendment adopted by electorate 9-2-86; Amendment adopted by electorate 11-5-19)

Sec. 3.04. OFFICE OF THE TOWN CLERK.

This office shall be headed by a Town Clerk hired by the Town Manager to serve the Commission. The salary of the Town Clerk shall be fixed by the Commission. The Town Manager shall have exclusive supervisory authority over the Town Clerk as a Town employee, including the authority to manage, discipline, and terminate consistent with the Town's employment policies, without consent of the Town Commission. The Clerk shall be: Clerk of the Commission and shall keep the Commission journal; custodian of ordinances, resolutions, and such other official records as the Commission may prescribe; attestor to contracts, bonds, and other instruments as may be prescribed by law; chief registration and elections officer of the Town; and responsible for other duties so prescribed by the Town Commission or Town Manager.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86; Am. Ord. 2017-02, adopted 8-16-17; Amendment adopted by electorate 11-7-17)

Sec. 3.05. OFFICE OF THE TOWN ATTORNEY.

This office shall be held by an attorney, appointed by the Commission. The salary of the Town Attorney shall be fixed by the Commission. The Town Attorney shall be legal advisor and attorney to the officers of the Town in matters affecting the Town or relating to their official duties; prosecute and defend in behalf of the Town all civil actions in which the Town is a party; prepare and endorse written instruments in which the Town is concerned; be prosecutor in the Town court; and perform other duties as the Commission may require or as may be prescribed by general state law, consistent with this Charter and with ordinances or resolutions of the Commission. One or more assistants may perform any duties of the Town Attorney. The Town Attorney and his assistants shall be lawyers admitted to and having authority to practice in all courts of the state, as well as the Federal District Court.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86)

Sec. 3.06. POLICE DEPARTMENT.

The Police Department shall be responsible for the enforcement of federal and state laws and Town ordinances.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 9-2-86)

Sec. 3.06A. LAW ENFORCEMENT AND POLICE PROTECTION.

Before any arrangement is entered into that would materially change the existing arrangement for law enforcement and police protection, including the utilization of the Brevard County Sheriff's Department or the police department of any other political entity, the matter will be brought before the people in a referendum.

(Amendment adopted by electorate 11-4-86)

Sec. 3.07. RESERVED.

Sec. 3.08. RESERVED.

Sec. 3.09. RESERVED.

Sec. 3.10. INDEPENDENT AUDITS.

The Commission shall designate qualified Certified Public Accountants who shall make an independent audit of accounts and financial transactions of the Town government and the several units thereof as of the end of each fiscal year. The Commission may provide for more frequent audits of the Town government. A copy of each audit shall be filed with the Legislative Auditor of the State of Florida.

(Adopted by electorate 11-6-73)

Sec. 3.11 CODE OF ETHICS.

The following code of ethics shall apply to all officers and employees of the municipality, whether elected or appointed, paid or unpaid. By majority vote of the Commissioners, the Commission may vote to censure a member for violating this code. No officer or employee of the Town shall knowingly:

(a) Engage in any business or transaction or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties or

would tend to impair his independence of judgment or action in the performance of his official duties;

(b) Engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his official duties, or would tend to impair his independence of judgment or action in the performance of his official duties;

(c) Disclose confidential information concerning the property, government, or affairs of the governmental body by which he is employed, without proper legal authorization, or use such information to advance the financial or other private interest of himself or others;

(d) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm, or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the governmental body by which he is employed; provided, however, that any such officer or employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(e) Represent private interests in any action or proceeding against the governmental body by which he is employed;

(f) Vote or otherwise participate in the negotiation or the making of any contract involving the Town with any business or entity in which he has a financial interest;

(g) Have any private financial interest, directly or indirectly, in any contract or matter pending before or within any department of the Town, [and if so] shall disclose such private interest on the records of the Commission, and shall disqualify himself from participating in any decision or vote relating thereto;

(h) Use property owned by such governmental body for personal benefit, convenience, or profit except in accordance with policies of the Commission; or

(i) Violate the Code of Ethics for Public Officers and Employees or the Florida Election Code, as set forth in Florida Statutes, and implementing rules thereof, and if a Town officer or employee has been found to have violated the Code of Ethics for Public Officers and Employees by the Florida Commission on Ethics or the Florida Election Code by the Florida Elections Commission, or implementing rules thereof, he or she may be censured by the Town Commission.

(Adopted by electorate 11-6-73; Amendment adopted by the electorate 11-2-04)

Sec. 3.12. ADVISORY BOARDS.

The Commission may establish advisory boards to make recommendations concerning economic development, recreation, parks, playgrounds, and their facilities and activities as well as planning and zoning and such other municipal functions as the Commission deems

advisable. Such boards shall be composed of a representative membership of registered electors of the Town.

(Adopted by electorate 11-6-73)

ARTICLE IV. JUDICIAL SYSTEM

(Repealed 11-2-04)

ARTICLE V. ELECTORAL PROVISIONS

Sec. 5.01. ELECTORS.

Any person who is a resident of the Town and registered through the County registration system shall be an elector of the Town.

(Adopted by electorate 11-6-73)

Sec. 5.02. ELECTION ORDINANCES.

Regulations for the conduct and supervision of local elections shall be established by ordinance.

(Adopted by electorate 11-6-73)

Sec. 5.03. TIME AND MANNER OF ELECTIONS.

Regular Town elections shall be held on the first Tuesday after the first Monday in November each year. The candidate receiving the highest number of votes on the votes cast in the election shall be declared elected. When more than one vacancy for a Commission seat at large exists, that number of candidates receiving the most votes shall be elected.

(Adopted by electorate 11-6-73)

Sec. 5.04. DISCLOSURE OF EXPENSES.

The Town Commission shall provide, by ordinance, for a system whereby all candidates for elective office in the Town shall report to the Town Clerk all expenses and contributions of said election campaign. Such reports shall be available to the public.

(Adopted by electorate 11-6-73)

ARTICLE VI. INITIATIVE, REFERENDUM, RECALL

Editor's note: Article VI is applicable unless otherwise governed by F.S. §§ 166.031, 171.0413, and 171.051.

Sec. 6.01. PROPOSED ORDINANCES.

The electors of the Town shall have power to propose ordinances to the Commission. Any proposed ordinance, including ordinances for the repeal or amendment of ordinances then in effect, may be submitted to the Commission by petitions signed by at least twenty (20) percent of the total number of qualified registered voters in the municipality. All petitions circulated with respect to any proposed ordinance shall be uniform in character, shall contain the proposed ordinance in full, each signer of the petition shall sign his name and street address in ink and shall place on the petition opposite his name the date of his signature. The signatures on any such petition need not all be appended to one paper but to each page of said petition there shall be attached an affidavit by the circulars thereof stating the number of signers to the portion of the petition so circulated and that each signature appended to the petition is the genuine signature of the person whose name it purports to be and that said petition was signed in the presence of the affiant and on the date indicated.

(Adopted by electorate 11-6-73)

Sec. 6.02. REPEAL OR AMENDMENT OF ORDINANCES ADOPTED BY ELECTORAL VOTE.

No ordinance adopted by an electoral vote shall be repealed or amended except by an electoral vote. An ordinance to repeal or amend any such ordinance may, by resolution of the Commission, be submitted to an electoral vote at any regular election, providing public notice of the intention is given by the Commission not more than sixty (60) nor less than thirty (30) days prior to such election.

(Adopted by electorate 11-6-73)

Sec. 6.03. CERTIFICATION OF PETITIONS.

Under the initiative and the referendum it shall be the duty of the Town Clerk to assemble all copies of any petitions filed as one instrument and to examine the same and ascertain and certify within twenty (20) days whether the signatures thereon amount to at least twenty (20) percent of the qualified registered voters who signed same. If the petition does not meet the requirements, notice of such shall be given to the party submitting the petition at once.

(Adopted by electorate 11-6-73)

Sec. 6.04. ELECTION PROCEDURE.

If said petitions comply with the requirements of this Charter, it shall be the duty of the Commission to forthwith order and fix a date for the holding of an initiative or referendum election, as the case may be, and notice of such election shall be given for a period of not less than thirty (30) days. Any and all initiative or referendum elections shall be held and conducted in the same manner as any general or special election of the Town of Melbourne Beach. Any ordinance approved by a majority of those voting in any initiative election shall thereupon become a valid ordinance of the Town of Melbourne Beach.

(Adopted by electorate 11-6-73)

Sec. 6.05. RECALL.

Any Commissioner, including Commissioners-at-Large and the Mayor, of the Town may be recalled and removed from the office by the electors of the Town in the manner provided by Florida Statutes, as the same may be amended from time to time.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-7-89)

Sec. 6.06. REZONING APPROVAL.

No rezoning of one single parcel of property or group of parcels of properties shall be effective that changes the zoning district classification from one zoning district to another zoning district until the rezoning proposal shall be approved by a majority of the Town electorate voting in a general or special election. The foregoing requirement to submit a rezoning proposal to the Town electorate shall only be effective if the Town Commission first certifies that submitting the rezoning proposal to the Town electorate is not prohibited by Florida law. Prior to any proposal being placed on the ballot, to the extent required by law the Town government shall make a determination whether the proposed rezoning is consistent with the Town's comprehensive plan. This provision shall apply regardless of whether the rezoning proposal is initiated by a property owner, member of the general public, the Town, or other person, natural, corporate, or otherwise.

(Adopted by electorate 11-8-05; Am. Ord. 2011-05, adopted 8-17-11; Amendment adopted by electorate 11-8-11)

Sec. 6.07. HEIGHT LIMITS.

The building height permitted on any parcel of land by the Code of Ordinances of the Town of Melbourne Beach, Florida, as the Code exists on September 1, 2006, may be increased only after any such increase shall have been first approved by the electors of the Town of Melbourne Beach, Florida, in a referendum election proposing such an increase.

The cost of any such referendum election shall be borne by the person, group, or entity proposing the increase.

(Adopted by electorate 11-7-06)

ARTICLE VII. BONDS

Sec. 7.01. AUTHORITY TO ISSUE.

Whenever it shall be deemed advisable to issue bonds of the Town of Melbourne Beach for any lawful municipal purpose, refunding previous bonds and interest and other obligations, for raising money to be used for said lawful purpose, the Commission in their corporate capacity are hereby authorized, in compliance with the Constitution and laws of the State of Florida, to issue the bonds of said Town, under the seal of the municipality. However, any general obligation bonds pledging the full faith and credit of the Town shall not be issued unless approved by referendum by a majority vote of the qualified elector of this Town.

(Adopted by electorate 11-6-73)

ARTICLE VIII. FINANCIAL PROCEDURES

Sec. 8.01. FISCAL YEAR.

The fiscal year for Town government shall conform to the Florida Statutes.

(Adopted by electorate 11-6-73)

Sec. 8.02. PREPARATION OF BUDGET.

The Department of Finance shall have the responsibility for preparing the proposed budget.

(Adopted by electorate 11-6-73)

Sec. 8.03. PUBLIC HEARING ON THE BUDGET. (Repealed 11-2-04)

Sec. 8.04. ADOPTION OF THE BUDGET.

After the public hearing, the Commission shall adopt by resolution by vote of at least a majority of the Commission membership a final budget for the Town. In adopting the final budget, the Commission may amend the proposed budget by adding, increasing, deleting, or decreasing any programs or amounts, other than expenditures required by law or for debt service. Total proposed expenditures in the final budget shall not exceed total anticipated revenues.

(Adopted by electorate 11-6-73)

Sec. 8.05. EFFECT OF FINAL BUDGET AND EFFECTIVE DATE.

From the effective date of the final budget, the amounts stated therein as proposed expenditures shall be and become appropriated to the designated purpose and objects. The amounts stated therein as amounts to be raised by taxes shall constitute determinations of the amount of tax levies for Town government purposes for the fiscal year. Taxes so levied shall be certified by the Town Clerk upon adoption of the final budget. The Clerk shall make available copies of the final budget to Town officers and interested persons.

The final budget shall be adopted prior to the start of the next fiscal year.

(Adopted by electorate 11-6-73)

Sec. 8.06. TAX AUTHORITY.

The Town Commission shall have full power and authority to levy taxes upon all property, privileges, and professions which are taxable in accordance with the laws of the state.

(Adopted by electorate 11-6-73)

Sec. 8.07. TAX ASSESSMENT AND COLLECTION.

The Commission is authorized to provide by ordinance for the assessment or collection, or both, of ad valorem taxes by the Brevard County Tax Collector and Assessor.

(Adopted by electorate 11-6-73)

Sec. 8.08. SPECIAL ASSESSMENTS.

The Commission is authorized to provide improvements and to levy and collect special assessments against the property benefited as prescribed by Florida Statutes.

(Adopted by electorate 11-6-73)

Sec. 8.09. PUBLIC MONIES.

All public monies, excepting pension funds, shall be deposited in the name of the Town of Melbourne Beach in such qualified public depositories as defined by and designated pursuant to Chapter 280, Florida Statutes, funds, investments, or accounts as designated by the Town Commission; provided, that all public monies shall be deposited or invested in a manner not inconsistent with Florida law. All public monies shall be disbursed in such a manner so that a written record shall be created and maintained pursuant to standards adopted by the State of Florida Auditor General (or said Auditor's designated successor as provided by law), and if no standards shall have been adopted by the Auditor General, then said written records of disbursement shall be created and maintained pursuant to generally accepted accounting standards as recommended by the Town's auditors and adopted by the Town.

Any person performing any duties in which he collects, receives, or handles any public monies must qualify under a blanket bond.

(Adopted by electorate 11-6-73; Amendment adopted by electorate 11-2-04; Amendment adopted by electorate 11-3-09)

Sec. 8.10. FRANCHISES.

Franchises shall be granted as prescribed by ordinance.

(Adopted by electorate 11-6-73)

ARTICLE IX. MISCELLANEOUS PROVISIONS

Sec. 9.01 ACTIONS AGAINST THE TOWN.

No action shall be maintained against the Town for damage, injury, death, or other loss arising out of accident, or the alleged failure to keep in proper condition any public properties or places, or any alleged or imputed negligence of the Town or any of its officers or employees, unless:

(a) It shall appear that the loss was directly caused by negligence of the Town or some Town officer or employee exercising his duty; and

(b) Written notice of such loss shall have been given to the Town within sixty (60) days after the occurrence of the accident or other event causing the loss, by the injured party or his agent or attorney; and

(c) Such notice contains such reasonable specifications as to time, place, and witnesses as will enable the Town to investigate the matter.

The Town may make such reasonable settlement of any such loss as may be agreed upon by the Commission.

(Adopted by electorate 11-6-73)

Sec. 9.02. EXTENSION OF TERRITORIAL LIMITS.

Editor's note: Sec. 9.02. is applicable unless otherwise governed by F.S. Chapter 171.

In addition to other means of annexation provided by Florida Statutes, the Town is authorized to annex by ordinance an area contiguous to the existing Town boundaries.

A petition signed by a majority of landowners of that area may be presented to the Commission. Upon approval by a referendum vote of the electors of the Town, the Commission shall by ordinance annex to the Town the area described in the petition. The Commission may, prior to the annexation and as a condition thereof, make such requirements as it deems appropriate relative to plats, streets, curbs, sidewalks, sewers, water mains, and similar facilities in the area to be annexed.

(Adopted by electorate 11-6-73)

Sec. 9.03 PLANNING AND ZONING BOARD.

The Town Commission shall appoint an advisory board, known as the Planning and Zoning Board, which shall recommend to the Commission appropriate regulations to be enforced. Such Planning and Zoning Board shall hold public hearings on the Board's proposed changes before submitting its report. The Commission shall not take action until it has received the report of the Advisory Board. Zoning standards, as a minimum, shall conform to county zoning standards.

(Adopted by electorate 11-6-73)

Sec. 9.04. BOARD OF ADJUSTMENT.

The Town Commission shall establish a Board of Adjustment whose duties and authority shall be as provided by Florida Statutes and by Town ordinances.

(Adopted by electorate 11-6-73)

Sec. 9.05. CHARTER AMENDMENTS AND REVISIONS.

This Charter or any portion thereof may be amended or revised in accordance with the Florida Statutes.

(Adopted by electorate 11-6-73)

Sec. 9.06. CONFLICTING LAWS.

All laws and parts of laws, ordinances, or regulations, insofar as they conflict with or are inconsistent with the provisions of this Act be and the same are hereby repealed.

(Adopted by electorate 11-6-73)

Sec. 9.07. SEVERABILITY.

If any article, section, or portion of article or section of the Act shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Act not the context in which such article, section, or portion of an article or section so held invalid may appear, except to the extent that an entire article or part of an article or section or part of a section may be inseparable connected in meaning and effect with that portion of the Act to which the holding shall directly apply.

(Adopted by electorate 11-6-73)

Sec. 9.08. EFFECTIVE DATE.

This Charter shall take effect immediately as of the date said Charter is filed with the Department of State, Secretary of State.

(Adopted by electorate 11-6-73)