

**ORDINANCE NO. 2013-25**

**AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, PROPOSING AMENDMENTS TO THE CITY OF VENICE CHARTER; AMENDING PART I, CHARTER AND RELATED LAWS BY DELETING SUBPART A AND REVISING SOME ARTICLE AND SECTION TITLES; ARTICLE III, LEGISLATIVE, CHANGING THE TITLE TO CITY COUNCIL, CITY CLERK AND CITY ATTORNEY; SECTION 3.04, ELECTIONS, TERMS OF OFFICE AND TERM LIMITS AND SECTION 3.07, VACANCIES, FORFEITURE OF OFFICE, STANDARD OF CONDUCT, FILLING OF VACANCIES, EMERGENCY SUCCESSION, PROCEDURE OF FORFEITURE, MAKING IT SO APPOINTED OR PARTIAL TERMS DO NOT COUNT TOWARD TERM LIMITS; SECTION 3.05, COMPENSATION AND EXPENSES, TO ALLOW INCREASES OR DECREASES TO COUNCILMEMBER COMPENSATION BY INITIATIVE PROCEEDINGS; SECTION 3.06, PROHIBITIONS, TO CORRECT A SCRIVENER'S ERROR; SECTION 3.08, CITY CLERK AND SECTION 3.09, PROCEDURE, TO RENUMBER THESE SECTIONS AND TO MAKE CHANGES TO CITY COUNCIL'S REGULAR MEETING SCHEDULE; SECTION 3.10, CITY ATTORNEY, TO SPECIFY DUTIES OF THE CITY ATTORNEY; ARTICLE IV, ADMINISTRATIVE, CHANGING THE TITLE TO CITY MANAGER; SECTION 4.02, APPOINTMENT, QUALIFICATIONS, COMPENSATION, REMOVAL, TO PROVIDE FOR DUE DILIGENCE IN APPOINTING A CITY MANAGER; SECTION 4.04, POWERS AND DUTIES OF THE CITY MANAGER, AUTHORIZING THE CITY MANAGER TO SUSPEND OR REMOVE THE FINANCE DIRECTOR, POLICE CHIEF AND FIRE CHIEF; ARTICLE V, FINANCIAL PROCEDURES, SECTION 5.02, SUBMISSION OF PROPOSED BUDGET AND BUDGET MESSAGE TO PROVIDE A LIMITATION ON THE PROPOSED BUDGETARY INCREASE THAT MAY BE REQUESTED BY THE CITY MANAGER WITHOUT PRIOR CONSENT OF CITY COUNCIL; ARTICLE VIII, CHARTER AMENDMENTS, SECTION 8.01, CHARTER AMENDMENTS AND SECTION 8.03, ADOPTION OF AMENDMENT, TO CHANGE QUALIFIED ELECTORS TO REGISTERED VOTERS; ARTICLE IX, INITIATIVE AND REFERENDUM, TO CHANGE THE TITLE TO INITIATIVE AND CITIZEN REFERENDUMS AND TO IMPROVE THE PROCESS FOR FILING INITIATIVES AND REFERENDUMS; ARTICLE X, RECALL, SECTION 10.01, RECALL, TO CHANGE REFERENCE TO FLORIDA STATE LAW; ARTICLE XI, GENERAL PROVISIONS, SECTION 11.03, SEPARABILITY CLAUSE, TO CHANGE IT TO SEVERABILITY; DELETING SUBPART B, RELATED LAWS; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Venice City Council appointed a Charter Review Committee to review the charter and make recommendations concerning changes to that document; and

**WHEREAS**, Venice City Council has received a recommendation from the Charter Review Committee and determined that the qualified electors of the city shall be given an opportunity to vote on the recommendations; and

**WHEREAS**, Venice City Council added a suggested charter change that would limit the ability of the city manager to ask for budgetary increases without prior approval of city council.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA**, as follows:

The City of Venice Code of Ordinances is amended as follows with ~~strike through text~~ identifying deletions and underlined text indicating additional language.

**SECTION 1. Findings.** The City Council of the City of Venice, Florida, hereby proposes to the electorate certain Charter revisions as hereafter set forth.

**SECTION 2. Proposed Amendment of the City of Venice Charter.** Pursuant to the provisions of Section 8.01(a) of the City of Venice Charter, it is proposed that said Charter be amended as provided on Exhibit "A" attached hereto and made a part hereof. The proposed amendments shall be divided into nine questions as set forth in Section 6 of this Ordinance.

**SECTION 3. Election.** The regular election for the City of Venice to be held on November 5, 2013 will be the means for submitting to the qualified electors residing within the City of Venice the question of approval or rejection of the herein proposed amendments to the City Charter.

**SECTION 4. Polling Places.** The regular election shall be held at the polling places designated for City elections.

**SECTION 5. Hours of Election.** The polls shall be open at the polling places on the date of such election from 7:00 a.m. to 7:00 p.m. All qualified electors residing within the City of Venice may vote in said election. Early voting shall be permitted at the Robert L. Anderson branch of the Sarasota County Supervisor of Elections office beginning at 8:30 a.m. on October 28, 2013 and ending at 4:30 p.m. on November 1, 2013. The Supervisor of Elections office will be open Monday through Friday from 8:30 a.m. to 4:30 p.m. during the early voting period.

**SECTION 6. Form of Ballot.**

(a) The ballot to be used in the November 5, 2013 election shall be produced on the certified Sarasota County elections voting system. The ballot shall be in substantially the following form:

**OFFICIAL BALLOT**

PROPOSED CHARTER AMENDMENTS  
CITY OF VENICE, FLORIDA  
November 5, 2013

**QUESTION 1. PARTIAL TERMS OF OFFICE AND TERM LIMITS**

Appointed or partial terms of office are currently counted toward term limits. Should the City Charter be amended so that appointed or elected partial terms to fill city council vacancies do not count for computing term limits?

YES, for the amendment

NO, against the amendment

The City of Venice Code of Ordinances is amended as follows with ~~strike through text~~ identifying deletions and underlined text indicating additional language.

**QUESTION 2.** INCREASES OR DECREASES TO COUNCILMEMBERS' COMPENSATION BY INITIATIVE PROCEEDING

An increase or decrease of the mayor's or councilmembers' compensation is currently not allowed to be considered by petition signed and voted upon by registered voters of the city. Should the City Charter be amended to allow an increase or decrease of compensation to be by petition and vote of registered voters?

YES, for the amendment

NO, against the amendment

**QUESTION 3.** VENICE CITY COUNCIL MEETING SCHEDULE

The Venice City Council is required to meet at least once a month. Should the City Charter be amended to allow for more flexibility in scheduling meetings?

YES, for the amendment

NO, against the amendment

**QUESTION 4.** CITY ATTORNEY DUTIES

The city charter does not specify the city attorney's duties. Should the City Charter be amended to specify the city attorney's duties to include serving as the chief legal adviser and supervising and/or representing the city in all legal matters?

YES, for the amendment

NO, against the amendment

**QUESTION 5.** CITY MANAGER PROVISIONS

The charter conflicts with state law on severance provisions for the city manager, has no provision to exercise due diligence to appoint a new manager and requires city council's advice and consent when removing or suspending key personnel. Should the City Charter be amended to remove severance provisions for the manager, require due diligence in appointing a manager and authorize the manager to suspend or remove the finance director, police and fire chief?

YES, for the amendment

NO, against the amendment

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**QUESTION 6.** BUDGET PROPOSAL LIMITATIONS

The current charter does not limit the amount of budgetary increase that may be requested by the city manager without prior consent of city council. Should the City Charter be amended so that portions of the city manager's proposed budget shall not be increased by greater than three percent of the approved budget for the prior year or the percentage change in the Consumer Price Index without prior council approval?

YES, for the amendment

NO, against the amendment

**QUESTION 7.** CHANGING TERMS USED – QUALIFIED ELECTORS AND GENERAL LAW

The charter currently uses the reference “qualified electors” and “general law”. Should the City Charter be amended to change “qualified electors” to “registered voters” and change “general law” to “Florida state law”?

YES, for the amendment

NO, against the amendment

**QUESTION 8.** INITIATIVES AND REFERENDUMS

The current initiative and citizen referendum process is very complex. This amendment is intended to streamline the process and make it easier for the public to initiate such types of proceedings. Should the City Charter be amended to revise the initiative and citizen referendum process to improve the process for filing initiatives and referendums?

YES, for the amendment

NO, against the amendment

**QUESTION 9.** SUBPART B – RELATED LAWS

Subpart B – Related Laws no longer needs to be included in the charter due to these provisions being obsolete. Should the City Charter be amended to delete Subpart B – Related Laws?

YES, for the amendment

NO, against the amendment

(b) The form of the ballot to be used in the election for early voting by mail shall be in substantially the form provided in subsection (a) above.

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(c) Voting Instructions:

AT THE POLLS: The Supervisor of Elections will provide voting instructions at each polling place.

EARLY VOTING: The Robert L. Anderson branch of the Sarasota County Supervisor of Elections office will be open Monday through Friday from 8:30 a.m. to 4:30 p.m. during the early voting period.

**SECTION 7. Code and Charter Changes.** The amendments effectuating each question are attached as Exhibit "A" to this Ordinance.

**SECTION 8. Effective Date.** If there is a contested election for public office scheduled for November 5, 2013, this Ordinance shall take effect immediately upon its adoption as provided by law and the amendments shall become effective November 13, 2013, if approved by the qualified electors of the city. If there is no contested election for public office scheduled for November 5, 2013, this ordinance shall become null and void, having no further force or effect, and the clerk is hereby directed to bring the substance of this ordinance back to city council for first reading once a date for the next election has been established.

**SECTION 9. Filing With Supervisor of Elections.** The City Clerk is hereby directed to file a certified copy and an electronic copy of this Ordinance upon adoption with the Supervisor of Elections of Sarasota County.

**PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 27TH DAY OF AUGUST, 2013.**

First Reading: August 13, 2013  
Final Reading: August 27, 2013

ADOPTION: August 27, 2013

\_\_\_\_\_  
John Holic, Mayor

ATTEST:

\_\_\_\_\_  
Lori Stelzer, MMC, City Clerk

Approved as to form:

\_\_\_\_\_  
Dave Persson, City Attorney

The City of Venice Code of Ordinances is amended as follows with ~~strike through text~~ identifying deletions and underlined text indicating additional language.

**EXHIBIT "A" TO CITY ORDINANCE NO. 2013-25  
PROPOSED AMENDMENTS TO THE CITY OF VENICE CHARTER**

**QUESTION 1. PARTIAL TERMS OF OFFICE AND TERM LIMITS**

The following sections of the Charter are amended to read as follows:

**Sec. 3.04. Elections, terms of office and term limits.**

- (a) The elected term of office for the mayor shall always be three years and no person shall serve as mayor for more than three consecutive elected terms.
- (b) The elected term of office for city councilmembers shall be three years. The terms shall be staggered so that two city councilmembers shall be elected each year. Under certain circumstances as specified in Section 3.07, a city councilmember may be elected to serve the remaining portion of an unexpired term. No person shall serve as a city councilmember for more than three consecutive elected terms.
- (c) No person shall serve as mayor and as a city councilmember in any combination for more than six consecutive elected terms.
- (d) Appointed or elected partial terms of office to fill vacancies pursuant to section 3.07 shall not be counted for the purpose of computing term limits under section 3.04.

**Sec. 3.07. Vacancies, forfeiture of office, standard of conduct, filling of vacancies, emergency succession, procedure of forfeiture.**

- (a) *Vacancies.* The office of the mayor or a city councilmember shall become vacant upon death, resignation, forfeiture of office or removal from office in any manner authorized by law. Such forfeiture to be declared by the remaining members of the city council or upon the assumption of duties of another office pursuant to section 3.07(d)(1).
- (b) *Forfeiture of office.* A councilmember shall forfeit that office if the councilmember:
  - (1) lacks at any time during the term of office for which elected any qualification for the office prescribed by this charter or by law,
  - (2) violates any express prohibition of this charter,
  - (3) is convicted of a crime involving moral turpitude, or
  - (4) fails to attend three consecutive regular meetings of the city council without being excused by the city council.
- (c) *Standard of conduct.* The public officials and employees of the City of Venice are governed by the Florida Code of Ethics (F.S. § 112.311 et seq., as amended) and by those additional standards of conduct that are or may be adopted by the City of Venice. Violation of any provisions of such codes of ethics or standards of conduct ~~in addition to any criminal penalty~~

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~~involved shall, pursuant to the applicable constitutional and statutory procedures, constitute grounds for forfeiture of office as well as be subject to any civil and/or criminal penalties and may be punished as provided by general law.~~

(d) *Filling of vacancies.*

(1) In the event of a vacancy in the office of mayor, the vice-mayor shall assume the duties of mayor until the next regular city council meeting at which time the city council shall appoint a mayor from amongst its members. The appointed mayor shall serve until the next municipal election when a mayor shall be elected to serve a three year term of office; the acting mayor shall then resume his or her seat on the city council for his or her remaining unexpired term. The vacancy created by the appointment of the mayor shall be filled by appointment by the city council for the duration of that vacancy.

(2) Vacancies in the office of city council shall be filled by the city council with any qualified resident so appointed to serve until a successor is elected at the next regular municipal election or special election earlier called for that purpose. A person elected in such election will serve the remaining unexpired term of the city councilmember whose vacant office is being filled.

(3) If a vacancy is not filled by the city council within 30 days after the vacancy occurs, a special election shall be held within 60 days after such a vacancy occurs; and the person so elected shall serve the remaining unexpired term of office. ~~No time served in an appointed status or while acting or serving an interim position in any office as an elected official shall be included in computing the length of any official's term of office.~~

(e) *Emergency succession.* The city council shall adopt by ordinance, a plan for emergency succession.

(f) *Procedure of forfeiture.* A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing. Decisions made by the city council under this section shall be subject to judicial review.

**QUESTION 2.** INCREASES OR DECREASES TO COUNCILMEMBERS' COMPENSATION BY INITIATIVE PROCEEDING

**Sec. 3.05. Compensation and expenses.**

An ordinance by the city council increasing or decreasing the compensation of the mayor and other city councilmembers shall be submitted to referendum at the next regularly scheduled election, and shall become effective immediately if approved. In addition, an ordinance increasing or decreasing the compensation of the mayor and other city councilmembers may be approved by the registered voters of the city via an initiative proceeding under Article IX, and

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shall become effective immediately if approved.

### **QUESTION 3.** VENICE CITY COUNCIL MEETING SCHEDULE

#### **Sec. 3.089. Procedure.**

(a) *Meetings.* The city council shall meet regularly at such times and places as necessary to effectuate the city's business and that ~~least once in every month at such times and places as~~ will encourage and permit attendance by the greatest number of city residents. Special meetings may be held on the call of the mayor or of a majority of the councilmembers. All meetings shall be public except as exempted by state law.

(b) *Rules and journal.* The city council shall determine and adopt its own rules and order of business by ordinance. However, in the absence of a rule, Robert's Rules of Order (latest edition) shall govern. The city council shall keep written minutes of all regular and special meetings which shall be a public record and which shall be open for inspection by the public.

(c) *Voting.* Voting on ordinances and resolutions shall be recorded in the minutes of all meetings. A total of four persons, with or without the mayor, shall constitute a quorum. A smaller number may convene from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed in the rules of the city council. Four affirmative votes shall be required to approve a contract, to pass a resolution or for the final adoption of an ordinance.

### **QUESTION 4.** CITY ATTORNEY DUTIES

#### **Sec. 3.10. City attorney.**

(a) *Appointment and qualifications.* The mayor shall appoint the city attorney, with the advice and consent of the city council, who shall serve at the pleasure of and for such compensation as determined by the city council. The city attorney shall be a member of the Florida Bar.

(b) *Duties.* ~~The city attorney shall perform such legal duties as requested by the city council.~~ The city attorney shall serve as the chief legal adviser to the city council, all boards and commissions, the city manager, the city clerk and all departments, offices and agencies. He shall supervise and/or represent the city in all legal matters except as otherwise directed by city council. He shall also perform any other duties as directed by the city council or prescribed by state law, by this charter or by ordinance.

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## **QUESTION 5.** CITY MANAGER PROVISIONS

### **ARTICLE IV. – ADMINISTRATIVE CITY MANAGER**

#### **Sec. 4.02. Appointment, qualifications, compensation, removal.**

(a) *Appointment, qualifications, compensation.* The mayor shall appoint the city manager with the advice and consent of at least five members of the city council. The city manager shall be appointed for an indefinite period. The city council shall fix the compensation of the city manager. The city manager shall be appointed solely on the basis of executive and administrative qualities, training and experience. The city manager shall reside inside the city limits while in office.

(b) *Removal.* The city council may remove the city manager at any time, by a majority vote of all members of city council.

~~(1) When the city manager is removed he or she shall be compensated for such benefits as he or she may have accumulated under the City of Venice current personnel regulations and policies including such prior notice of intended termination as may be in effect at that time.~~

~~(2) If the city manager has been employed by the city for a period of 24 consecutive months and if by a majority vote of all members of city council a decision to remove the city manager for other than just cause has been adopted, then the city council shall authorize the payment of three months current salary beginning with the last day worked as severance pay plus any accrued benefits due under the City of Venice current personnel regulations and policies. Notwithstanding this provision, the City of Venice and the city manager may enter into an agreement providing for a different severance package.~~

(c) In the event of a vacancy in the office of city manager, the city council shall exercise due diligence to find and appoint a successor city manager as soon as is reasonable.

#### **Sec. 4.04. Powers and duties of the city manager.**

The city manager shall have the following powers and duties:

(a) *Appointment, suspension and removal.* Appoint and when deemed necessary for the good of the city, suspend or remove city employees and appointive administrative officers under the city manager's jurisdiction as provided for by city charter, ordinance, resolution, personnel rules of the city, or by general law. The city manager may authorize any administrative officer who is subject to the manager's direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency. Provided, however, the city manager shall, with advice and consent of the city council, appoint, ~~suspend or remove~~ the finance director, police chief and fire chief or those officers whose duties generally embrace those of the office of finance director, police chief and fire chief in the event of consolidation of said offices. However, the city manager may suspend or remove the finance director, police

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chief and fire chief or those officers whose duties generally embrace those offices upon any staff reorganization.

(b) *Direction and supervision.* Direct and supervise the administration of all departments, offices and agencies of the city, except the offices and departments of the city clerk and the city attorney or as otherwise provided by charter, ordinance, resolution, rules and regulations of the city, or by general law.

(c) *Attendance at meetings.* Attend city council meetings and shall have the right to take part in discussion but shall not vote.

(d) *Execution of orders.* See that all ordinances, provisions of the charter and acts of the city council subject to the enforcement by the city manager or by the officers subject to the city manager's direction and supervision, are faithfully executed.

(e) *Preparation of proposed budget and capital program.* Prepare and submit the proposed annual budget and capital program to the city council.

(f) *Financial report.* Submit to the city council and make available to the public, on a timely basis, a complete report on the finances and administrative activities of the city as of the end of each fiscal year.

(g) *Miscellaneous reports.* Make such other reports as the city council may require concerning the operations of the city departments, offices and agencies subject to the city manager's direction and supervision.

(h) *Recommendations to city council.* Keep the city council fully advised as to the financial condition and future needs of the city. Recommendations to the city council concerning the affairs of the city shall be made by the city manager on a timely basis.

(i) ~~Reserved.~~

~~(j) Reserved.~~

~~(k) Miscellaneous duties.~~ Perform such other duties as are specified in the charter or as may be required by the city council.

## **QUESTION 6.** BUDGET PROPOSAL LIMITATIONS

### **Sec. 5.02. Submission of proposed budget and budget message.**

At least two months prior to the beginning of the fiscal year, the city manager shall submit to the city council a proposed balanced budget and additional recommendations of needs of the city for the ensuing fiscal year and an accompanying message. Without prior city council approval, the city manager's proposed general fund component of the budget shall not be increased by greater than three

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percent of the approved general fund component of the budget for the prior year, or the percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics, whichever is greater. Nothing herein shall prohibit the city council from adopting a budget in excess of this limitation, so long as the approved budget is otherwise in accordance with law.

## **QUESTION 7.** CHANGING TERMS USED – QUALIFIED ELECTORS AND GENERAL LAW

### **Sec. 8.01. Charter amendments.**

Amendments to this charter may be framed and proposed by either:

- (a) Ordinance adopted by the city council setting forth the full text of the proposed amendments.
- (b) Written petition or petitions to the city council initiated by the electors setting forth the full text of the proposed amendment and signed in person by ~~qualified electors~~ registered voters of the city in accordance with requirements of general law. All required signatures to petitions initiated by the electors must bear the dates on which each signature is affixed, and all required signatures must be affixed within a period of 90 days prior to the date such petition is submitted to the city council.

### **Sec. 8.03. Adoption of amendment.**

Any proposed amendment to the charter adopted by a majority of the ~~qualified electors~~ registered voters of the city voting in such referendum shall become effective when filed with the office of the Department of State of the State of Florida.

### **Sec. 10.01. Recall.**

The mayor or any member of the city council may be removed from office by the electors of the city under the provisions of ~~general~~ Florida state law.

## **QUESTION 8.** INITIATIVES AND REFERENDUMS

### **ARTICLE IX. - INITIATIVE AND CITIZEN REFERENDUM**

#### **Sec. 9.01. General authority for initiative and citizen referendum.**

- (a) *Initiative.* The ~~qualified electors~~ registered voters of the city shall have power to propose ordinances or resolutions to the city council and, if the city council fails to adopt an ordinance or resolution so proposed without any change in substance, to adopt or reject it at a city election; ~~provided that~~ but such power shall not extend to the budget or capital program or ~~to~~

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~~an any ordinance or resolution relating to the appropriation of money, the levying of taxes, or to salaries compensation of city officers or employees-, except for the compensation for the city councilmembers, or any other matter prohibited by general state law.~~

(b) *Citizen Referendum.* ~~The qualified electors registered voters of the city shall have power to require reconsideration by the city council of any adopted ordinance or resolution, and, if the city council fails to repeal an ordinance or resolution so reconsidered, to approve or reject it at a city election, provided but that such power shall not extend to the budget or capital program or any emergency ordinance or resolution, or ordinance or resolution relating to appropriation of money, levying of taxes, or to salaries compensation of city officers or employees- or any other matter prohibited by general state law.~~

#### **Sec. 9.02. Commencement of proceedings; petitioners' committee; affidavit.**

(a) *Time for filing citizen referendum.* Citizen referendum affidavits and initiating petitions must be filed within 30 days after adoption by the city council of the ordinance or resolution sought to be reconsidered.

(b) Any five ~~qualified electors~~ registered voters may commence initiative or citizen referendum proceedings by filing with the city clerk ~~or another official designated by the city council~~ an affidavit and initiating petition 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 resolution, ~~or citing the ordinance or resolution sought to be reconsidered.~~ Within ten business days ~~Promptly~~ after the affidavit of the petitioners' committee is filed, the city clerk ~~or other official designated by the city council~~ shall, upon determining that the petition complies with requirements of section 9.02 ~~is legally sufficient as to form,~~ issue the appropriate petition blanks to the petitioners' committee ~~at that committee's expense.~~ If the city clerk determines that the petition does not comply with the requirements of section 9.02 is legally insufficient, the city clerk shall complete a certificate specifying the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. Thereafter, the petitioners' committee shall be entitled to submit a corrected petition or seek judicial review.

#### **Sec. 9.03. Petitions.**

(a) *Number of signatures.* Initiative and citizen referendum petitions must be signed by ~~qualified electors~~ registered voters of the city equal in number to at least ten percent of the total number of registered voters of the city. ~~qualified electors registered to vote at the last regular city election.~~

(b) *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 executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum ~~P~~petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance or resolution proposed or the ordinance or resolution sought to be

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reconsidered as the case may be.

(c) *Affidavit of circulator.* ~~All Each~~ papers of a petition shall have attached to ~~them~~ it when filed an affidavit executed by the person circulating them ~~circulator thereof~~ stating that he or she personally circulated the papers, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance or resolution proposed or the ordinance or resolution sought to be reconsidered as the case may be.

~~(d) Time for filing citizen referendum petitions. Citizen Referendum petitions must be filed within 30 days after adoption by the city council of the ordinance or resolution sought to be reconsidered. All required signatures to initiative and referendum petitions must bear the dates on which each signature is affixed, and all required signatures must be affixed within a period of 90 days prior to the date such petition is submitted to the city council.~~

(d) Time for filing final petition signatures. All signatures on final petitions must be signed within six months of submission to the city clerk.

#### **Sec. 9.04. Procedure after ~~for~~ filing.**

(a) *Certificate of city clerk; amendment.* The final petition with the required number of signatures and affidavits shall be assembled as one instrument for filing with the city clerk. Within 20 days after the initiative or referendum final petition is filed purporting to have the required number of signatures, the city clerk or other official designated by the city council shall complete a certificate as to its compliance with provisions of sections 9.03 and 9.04 sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in section 9.03

~~(b) Amendment of petition. A final petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the city clerk or other official designated by the city council within five two-working days after receiving the copy of the city clerk's his or her the completed certificate specifying insufficiency. In such case, The petitioners' committee may then amend the final petition with and files a supplementary petition with upon additional signatures and affidavits papers within 30 ten days after receiving the copy of such the certificate. Such supplementary petition shall comply with the requirements of paragraphs subsections (b); and (c) and (d) of section 9.03; and Wwithin five working days after it is filed, the city clerk or other official designated by the city council shall complete a certificate as to the sufficiency of the final petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original final petition. If a final petition or amended petition is certified insufficient, or if a final petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request city council review under paragraph subsection (be) of this subsection within the time required, the city clerk or other official designated by the city council shall promptly present his or her certificate~~

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to the city council and the certificate shall then be a final determination as to the sufficiency of the final petition as amended.

(~~eb~~) City Council review. If a petition has been certified insufficient by the city clerk and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the petitioners' committee may, within five ~~two~~ working days after receiving the copy of such certificate, file a request that it be reviewed by the city council. The city council shall review the certificate at ~~its~~ the next regularly scheduled meeting no earlier than ten days following the filing of such request and approve or disapprove it, and the city council's determination shall then be a final determination as to the sufficiency of the final petition as amended.

(c) Court review; new petition. A final determination as to the sufficiency of a final petition or a final petition as amended shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### **Sec. 9.05. Citizen ~~Referendum~~ petitions; suspension of effect of ordinance or resolution.**

When a final citizen referendum petition, purporting to include the required number of signatures, is filed with the city clerk ~~or other official designated by the city council~~, the ordinance or resolution sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when ~~under one of the following circumstances~~:

- (1) There is a final determination of insufficiency of the petition, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The city council repeals the ordinance or resolution, or
- (4) After a vote of the ~~city electors~~ registered voters on the ordinance or resolution has been certified.

#### **Sec. 9.06. Action on petitions.**

(a) Action by city council. When an initiative or citizen referendum petition has been finally determined sufficient, the city council shall promptly consider and vote on the proposed initiative ordinance or resolution ~~in the manner provided in Article III or vote on the reconsideration of the citizen referendum referred~~ ordinance or resolution sought to be repealed, ~~by voting on its repeal~~. If the city council fails to adopt a proposed initiative ordinance or resolution without any change in substance within 60 days or fails to repeal the citizen referendum referred ordinance or resolution sought to be repealed, within 30 days after the date the final petition was finally determined sufficient, it shall submit the proposed initiative ordinance or resolution or the citizen referendum or referred ordinance or resolution sought to be repealed, to the ~~electors~~ voters of the city.

(b) Submission to voters of proposed initiative or citizen referendum ordinances or resolutions ~~electors~~. The vote of the voters of the city ~~electors~~ on a proposed initiative ordinance or resolution or referred or a citizen referendum ordinance or resolution shall be held not less

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than 30 days and not later than one year 120 days from the date of the final city council vote thereon. ~~that the petition was determined sufficient.~~ If no regular city election is to be held within the period ~~de~~prescribed in this subsection, the city council shall provide for a special election~~;~~ otherwise, the vote shall be held at the same time as such regular election, except that the city council may, in its discretion, provide for a special election at an earlier date within the ~~de~~prescribed period. Copies of the proposed initiative ordinance or resolution or citizen referendum ~~or referred~~ ordinance or resolution shall be made available at the polls.

(c) *Withdrawal of petitions.* An initiative petition or citizen referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the city ~~electors~~ by filing with the city clerk ~~or other official designated by the city council~~ a request for withdrawal signed by at least two-thirds ~~four members~~ of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

#### **Sec. 9.07. Results of election.**

(a) *Initiative.* If a majority of the ~~qualified electors~~ registered voters voting on a proposed initiative ordinance or resolution 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 or resolutions of the same kind adopted by the city council. If conflicting ordinances or resolutions are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) *Citizen Referendum.* If a majority of the registered voters ~~city electors~~ voting on a citizen referendum ~~referred~~ ordinance or resolution vote in favor of its repeal ~~against it~~, it shall be considered repealed upon certification of the election results.

#### **QUESTION 9. SUBPART B – RELATED LAWS**

##### **Subpart B – RELATED LAWS<sup>(7)</sup>.**

<sup>(7)</sup> ~~**Editor's note**—~~ Section 2(c) of Fla. Const., art. VIII, provides that "exercise of extraterritorial powers by municipalities shall be as provided by general or special law." Accordingly, § 1.03 of the charter provides that extraterritorial powers and jurisdiction are preserved and remain in force. This subpart B contains those provisions of the former charter and special acts which might be construed to confer or otherwise relate to extraterritorial jurisdiction. The provisions of this subpart B have been assigned arbitrary section numbers by the editors to facilitate indexing; however, the special act or acts from which each provision is derived is cited in parenthesis following the provision. Amendments to the related laws are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original related law. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

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#### **~~Sec. 110. Body politic, powers generally.~~**

~~Said corporation [city] shall have perpetual succession and by the name of City of Venice may sue, be sued and defend, plead and be impleaded in all courts and places and in all matters and proceedings; may have and use a common seal and after [alter] the same at pleasure; may acquire by gift, grant, devise, bequest, purchase, lease, or in any other manner, similar or dissimilar, receive, own, lease, hold, use and enjoy, or sell and dispose of, real and personal property or any interest therein; may take by devise, bequest, gift, donation, or otherwise, any property, real or personal, in trust for public charitable or other purposes, and do all acts and things necessary or appropriate to effectuate such trusts; with power to manage, sell, lease or otherwise dispose of said property in accordance with terms of said trusts; may so acquire, use, manage and operate any of said properties, whether within or without the territorial limits of said municipality, for parks, golf courses, trailer parks, amusement and recreational centers, playgrounds, roads, cemeteries, and the erection, maintenance and operation of municipal buildings, works and constructions of every character, including, but not limited to, municipal offices, schools, court houses, fire and police stations, houses of detention and correction, hospitals, infirmaries, asylums, dispensaries, amusement and recreational areas, crematories, wharves, docks, piers, markets, sewage systems, lighting and power plants and water works to supply light, power and for public purposes, or to be sold for profit, and buildings, works and constructions for all other purposes that said municipality through its council may deem necessary or proper for the welfare of said municipality or the inhabitants thereof, and may exercise all other powers herein conferred.~~

~~The municipality may purchase or otherwise obtain property for any of the above purposes either within or without the municipality.~~

~~(Laws of Fla., ch. 11776(1925), art. 1, § 2; Laws of Fla., ch. 13478(1927), § 2; Laws of Fla., ch. 31327(1955), § 1(a))~~

#### **~~Sec. 120. General powers.~~**

~~The council shall within the limitation of this Act [charter and amendments] have the power by ordinance or resolution as follows:-~~

~~Fourth. *Disease control.* To make regulations to prevent the introduction and spread of infectious and contagious diseases into the city and to make quarantine laws for the purpose, and to enforce the same within five miles of the city limits.~~

~~Seventh. *Water supply.* To provide the city with a supply of water for public purposes, and to sell the same to private individuals for profit, by waterworks to be within or beyond the boundaries of the city, and for that purpose to acquire, build, construct or lease, or permit others to acquire, build, construct, or lease, waterworks and a water system.~~

~~Ninth. *Lighting, gas.* To provide for the lighting of the city by electricity, gas or other illuminating material and to sell gas or electricity to others for profit, within or beyond the~~

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~~boundaries of the municipality.~~

~~To procure real estate for the purpose of erecting electric or gas plants either within or beyond the boundaries of the municipality.~~

~~Thirteenth. *Vehicles for hire, licenses.* To license, tax and regulate hackney carriages, cars, vehicles, motors, omnibuses, wagons, and drays, and to fix the rate to be charged for the carriage of persons and property within the city limits and to the public works and property without the town limits.~~

~~Twentieth. *Inspection of dairies and dairy products.* To inspect and regulate the inspection of milk, butter and lard. Also to inspect and regulate all dairies which furnish milk to the municipality whether they be located within or without the city limits.~~

~~Twenty ninth. *Improving public grounds.* To provide for the purchase, enclosing, improving, maintaining and regulating of public grounds belonging to the municipality, within or without the corporate limits.~~

~~Fortieth. *Anchorage of water craft.* To license, govern, regulate or prohibit the permanent anchorage of house boats or other boats or vessels in [the] bay within the city limits or adjoining such city limits.~~

~~Forty first. *Boatways and boatyards.* To regulate or prohibit the use of the boatways or boatyards within and adjoining the city limits and to restrict their use to any portion of said city on the water front thereof; to construct docks, wharves or piers, and to control, manage and designate the use of all docks, wharves or piers within the city limits or adjoining the same; to license and control ferries landing within the city and on the water front thereof.~~

~~Forty second. *Sea walls.* To erect, construct, maintain and control a sea wall along any portion of the water front on the bay within or adjoining the city limits and the amount so paid for the erection, construction, maintaining and control of said sea wall shall be charged to the abutting property owners and shall be a lien upon the abutting land, which may be enforced at law or in equity.~~

~~Forty third. *Jurisdiction over waters.* The municipality and its officers shall have jurisdiction over the commission of all offenses against the public health or morals upon the waters of the Bay within one mile of the corporate limits of said city.~~

~~Forty seventh. *Retirement, pension, insurance, plan.* To provide one or more comprehensive retirement or pension plans for city officers and employees, either independently of or in conjunction with Social Security or other benefits afforded by federal or state laws; to provide one or more plans for group life, accident and/or health insurance for such officers and employees; to classify its officers and employees for such purposes; to contribute funds from the general revenues of said city for the support, in whole or in part, of any one or more of such retirement or insurance programs, or any combination thereof, and to make all necessary appropriations therefor from the general fund or from any special funds provided for such purposes.~~

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~~(Laws of Fla., ch. 11776(1925), art. 7, § 1; Laws of Fla., ch. 13478(1927), § 11; Laws of Fla., ch. 57 1920, § 1C; Laws of Fla., ch. 61 2956, § 1)~~

~~**Editor's note**— Although the 47th item of this section does not relate to extraterritorial jurisdiction, the city has directed that it be included herein since it constituted the authority for some pension plans which still have surviving beneficiaries. This provision was derived from the 1961 act cited above.~~

#### **~~Sec. 130. Sewer improvements.~~**

~~The city is hereby authorized and empowered:~~

~~(a) To construct, and to improve, extend, enlarge, reconstruct, maintain, equip, repair and operate a sewage disposal system or systems, either within or without or partly within and partly without the corporate limits of the city, and to construct or reconstruct sewer improvements within the corporate limits of the city;~~

~~(b) To enter on any lands, water or premises located within or without the city to make surveys, borings, soundings or examinations for the purposes of this Act [article].~~

~~(Laws of Fla., ch. 23586(1945), § 3)~~

~~**Editor's note**— The 1945 act containing the above provisions was an act authorizing sewer improvements and the issuance of revenue bonds therefor. Section 17 thereof declared it additional and alternative to other laws.~~

#### **~~Sec. 140. Police department.~~**

~~The chief of police shall be appointed by the city manager and confirmed by the city council and the members of the police department shall be appointed by the chief of police and confirmed by the city manager and shall hold office during the pleasure of the city manager and shall perform such duties as may be required of them either by the city manager or by ordinance of said municipality. They shall have the power and authority of sheriffs within their municipality and shall have the same powers without the municipality as may be conferred by law, including the power, which is hereby conferred, to make arrests for offenses committed within the municipality or on municipal property, and to serve process therefor, at any place within Sarasota County, Florida.~~

***The following sections of the Charter are amended as a scrivener's error, renumbering and clarification to read as follows:***

#### **Sec. 3.06. Prohibitions.**

(a) *Appointment and removals.* A city councilmember shall not in any manner dictate the appointment or removal of any city administrative officer or employee whom the charter

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officers or any of their subordinates are empowered to appoint, but any city councilmember may express his or her views and fully and freely discuss with the appropriate charter officer anything pertaining to appointment and removal of any officer or employee.

(b) *Interference with administration.* Except for the purpose of inquiries and investigations, the city council shall deal with city officers and employees who are subject to the ~~director~~ {direction} and supervision of the city manager solely through the city manager, and neither the city council nor its members shall give orders to any such officer or employee, either publicly or privately. Councilmembers shall, however, closely scrutinize, by questions and personal observation, all aspects of city government operations so as to obtain independent information to assist members in the formulation of sound policies to be considered by the city council. It is the express intent of this charter, however, that recommendations for improvement in city government operations by city councilmembers be made to and through the charter officers, so that they may coordinate efforts of their departments to achieve the greatest possible savings through the most efficient and sound means available.

(a) *Holding other office.* No former elected city official shall hold any compensated appointive city office or employment until one year after the expiration of the term for which the official was elected.

(d) *Relinquishing city property.* The city shall not relinquish any right that it has in real property, a road right-of-way or easement of public streets without a public notice and a public hearing.

### **Sec. 3.089. City clerk.**

(a) *Appointment and qualifications.* The mayor shall appoint a city clerk, with the advice and consent of the city council, who shall serve at the pleasure of and for such compensation as determined by the city council. The city clerk shall be appointed solely on the basis of professional qualifications.

(b) *Duties.* The city clerk shall be head of the department of records and custodian of all official records of the city and shall be responsible to the city council for the proper administration of all affairs concerning the records of the city placed under the city clerk's authority and shall:

(1) Perform such duties as may be prescribed by law, by the city charter, by ordinances of the city and by direction of the city council.

(c) *Appointment of deputy city clerks.* The city clerk may appoint such deputy city clerks as may be necessary to efficiently carry out the city clerk's duties. The appointment of any such deputy city clerk shall be presented to council in the form of a written resolution subject to a majority vote of council. Such appointment must be of record before the signature of any such deputy city clerk shall be effective.

(d) *Direction and supervision.* The city clerk shall direct, supervise and administer all the

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employees of the clerk's department provided by charter, ordinance, resolution, rules and regulations of the city, or by general law.

## **ARTICLE VII. NOMINATIONS AND ELECTIONS**

### **Sec. 7.02. Nonpartisan election.**

All nominations and elections for the office of mayor or city councilmember shall be conducted on a nonpartisan basis without regard for, or designation of, political party affiliation of any nominee or candidate on any ballot.

### **Sec. 11.03. ~~Severability~~ Separability clause.**

If any article or any part thereof, or any section or part thereof of this charter as it now exists or as it may be amended is held by any court of competent jurisdiction to be invalid or unconstitutional, such holding shall not invalidate or impair the validity, force or effect of any other article or part thereof, or any other section or part thereof, unless it clearly appears that such other article or part thereof, or section or part thereof, is wholly or necessarily dependent for its operation upon the article or part thereof, or section or part thereof, held to be invalid or unconstitutional. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons or circumstances shall not be affected thereby.

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