

ORDINANCE NO. 19-08-01

AN ORDINANCE AMENDING ORDINANCE NO. 511, DATED 1 OCTOBER 1983; CITY OF NICEVILLE CHARTER PROVIDING FOR 2 READINGS OF ORDINANCES PURSUANT TO STATUTE INSTEAD OF THE 3 READING REQUIREMENT, MAKING GENDER WORDING CHANGES AND OTHER MINOR CHANGES; PROVIDING FOR ENACTMENT; PROVIDING FOR THE CONTINUANCE OF THE MUNICIPALITY UNDER THE CORPORATE NAME OF THE CITY OF NICEVILLE, FLORIDA; PROVIDING FOR THE EXERCISE OF GOVERNMENTAL, CORPORATE, AND PROPRIETARY POWERS; PROVIDING FOR THE RE-ESTABLISHMENT OF THE CORPORATE LIMITS OF THE MUNICIPALITY AS THOSE PRESENTLY EXISTING; PROVIDING FOR THE CITY COUNCIL AS THE GOVERNING BODY; PROVIDING FOR A MAYOR AS PRESIDING OFFICER OF THE CITY COUNCIL; PROVIDING FOR THE QUALIFICATION, ELECTION AND TERMS OF COUNCIL MEMBERS; PROVIDING FOR A MAYOR PRO-TEM; PROVIDING FOR A COUNCIL-MANAGER FORM OF GOVERNMENT; PROVIDING FOR THE FINANCIAL REQUIREMENTS AND PROCEDURES OF THE MUNICIPALITY; PROVIDING FOR THE TAXATION AND INDEBTEDNESS OF THE MUNICIPALITY; PROVIDING FOR A RECALL OF ELECTED OFFICIALS, AND PROVIDING FOR INITIATIVE AND REFERENDUM AND PROVIDING FOR AN EFFECTIVE DATE. (FIRST READING)

~~ORDINANCE NO. 511-~~

~~AN ORDINANCE RELATING TO A NEW CHARTER FOR THE PRESENT MUNICIPALITY KNOWN AS THE CITY OF NICEVILLE; PROVIDING FOR THE CONTINUANCE OF THE MUNICIPALITY UNDER THE CORPORATE NAME OF THE CITY OF NICEVILLE, FLORIDA; PROVIDING FOR THE EXERCISE OF GOVERNMENTAL, CORPORATE, AND PROPRIETARY POWERS; PROVIDING FOR THE RE-ESTABLISHMENT OF THE CORPORATE LIMITS OF THE MUNICIPALITY AS THOSE PRESENTLY EXISTING; PROVIDING FOR THE CITY COUNCIL AS THE GOVERNING BODY; PROVIDING FOR A MAYOR AS PRESIDING OFFICER OF THE CITY COUNCIL; PROVIDING FOR THE QUALIFICATION, ELECTION, AND TERMS OF COUNCIL MEMBERS; PROVIDING FOR THE APPOINTMENT OF A~~

MAYOR BY THE CITY COUNCIL TO SERVE NOT MORE THAN TWO SUCCESSIVE TWO-YEAR TERMS AND PRESCRIBING QUALIFICATIONS FOR SUCH PERSON TO BE APPOINTED AS THE MAYOR, PROVIDING FOR A MAYOR PRO-TEM, PROVIDING FOR A COUNCIL / CITY-MANAGER-TYPE FORM OF GOVERNMENT, PROVIDING FOR THE FINANCIAL REQUIREMENTS AND PROCEDURES OF THE MUNICIPALITY, PROVIDING FOR THE TAXATION AND INDEBTEDNESS OF THE MUNICIPALITY, PROVIDING FOR A RECALL OF ELECTED OFFICIALS, AND PROVIDING FOR INITIATIVE AND REFERENDUM, AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF NICEVILLE, FLORIDA:

Footnotes:

— (1) —

Editor's note— Printed herein is the Charter of the City of Niceville, Ordinance Number 511, adopted on October 1, 1983 and adopted by referendum on July 19, 1983. The Charter is printed as it was originally adopted. Style and capitalization have been made uniform. Words have been added for clarification and appear in brackets [].

ARTICLE I. - IN GENERAL

Section 1.01. - Incorporation.

On July 7, 1938, some of the registered voters of Niceville, Florida signed a petition to determine whether or not to incorporate. The final count was 329 in favor and 4 against. House Bill No. 1302 to "establish a municipality of the City of Niceville" was introduced in the Senate, May 18, 1939 (Source: The Journal of the Senate, May 18, 1939 page 485) and passed May 25, 1939 (Source: The Journal of the Senate, May 25, 1939 page 687).

The inhabitants of Niceville, Florida, as its limits now or as the same may be hereafter established, shall continue to be a body politic under the municipal corporate name of the City of Niceville, Florida, and as such shall have perpetual succession, may sue or be sued, plead and be impleaded, and use a common seal. On May 14, 2013, the city council voted to add to the seal the established date when the community first received mail service on July 28, 1868, (Source: Florida Laws, statutes, etc. Acts and Resolutions adopted by the Legislature of Florida. No. 16, pages 190-191)

Section 1.02. - General powers.

The city council of the City of Niceville as the governing body, pursuant to the provisions of Article VIII, Section 2(b) of the State Constitution and the provisions of the Municipal Home Powers Act, Chapter 73-129, Laws of Florida and other applicable constitutional provisions and laws of the State of Florida, has the power to enact any legislation concerning any subject matter upon which the State Legislature may act except when expressly prohibited by law and shall have the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services and exercise any powers for municipal purposes as provided by law except where expressly prohibited by law or prohibited by or contrary to the provisions of this charter. In addition to the foregoing and not by way of limitation, the city shall have the following powers:

- (a) To organize and regulate its internal affairs and to establish, alter, abolish, and terminate permanent offices, positions, and employments, including citizen board positions, and to define functions, powers, and duties, and fix their term, tenure, and compensation.

- (b) To adopt, amend, and repeal such ordinances, resolutions, and codes as may be required for the good government of the city, including local police ordinances carrying penalties, zoning ordinances, housing codes, building and related technical codes, business regulations, and ordinances relating to and regulating the sales of alcoholic beverages and medical marijuana.
- (c) To prepare and adopt comprehensive plans for the development of the city including provision for subdivision regulation, environment protection, pollution control, community facilities and all other related activities.
- (d) To sue and be sued; to have a corporate seal, to enter into contracts; to buy, receive by gift or devise, sell, lease, hold and dispose of real and personal property for any public purpose; to have all power of eminent domain and to acquire by condemnation or otherwise all private lands, riparian, and other rights, necessary for public purposes and improvements.
- (e)
 - (1)

To provide such municipal services as will protect and promote the health and well being of the city and its inhabitants, such services to include, but not to be limited to, police, fire, utilities, stormwater, and sanitation.
 - (2) When deemed advisable, the city may provide any such services by contracting for these services or granting a franchise for the services as an alternative to providing the service directly.
- (f) To raise funds by taxation and to make such levy upon the taxable property in the City of Niceville as will provide funds necessary for the operation of the city and for such other public purposes as may be provided pursuant to general law, except and provided, however, that no ordinance shall be enacted providing for an increase in the rate of real property ad valorem taxation levied by the city resulting in a total millage for real property ad valorem taxes exceeding or continuing to exceed five (5) mills without a referendum approval of such ordinance by a majority of the qualified electors voting in such referendum.

State Law reference— No municipal charter may prohibit or limit the authority of the governing body to levy ad valorem taxes, F.S. § 195.207.

- (g) To appropriate funds for any public purpose.
- (h) To expend money for a single public purpose in a sum not to exceed one hundred thousand dollars (\$100,000.00) unless such expenditure in excess of one hundred thousand dollars (\$100,000.00) shall be contained in the budget for such fiscal year or approved by referendum vote or constitute an emergency as hereinafter defined.
- (i) To levy special assessments for local improvements and to acquire a lien on real property for failure to pay the assessment for such improvements, except and provided, however, that no special assessment for local improvements shall be levied by the city against any private property unless the procedures to make such levy have been invoked by a petition submitted to the city council bearing the bona fide signatures of the majority of the owners of record, as of the date of such submissions, of the property to be assessed.
- (j) To license and tax the privilege of engaging in businesses, occupations, and professions within the corporate limits of the city and to classify and define such businesses, occupations, and professions for the purpose of taxation.

State Law reference— Local ~~occupational-business license-tax receipts tax~~ authority and limitations, F.S. Ch. 205.

- (k) To do and perform all other acts deemed by the council to be necessary protection of the health, life, and property of the city and its inhabitants, not contrary to the laws of Florida.

Section 1.03. - Construction of powers.

The powers of the city under this charter shall be construed liberally in favor of the city.

Section 1.04. - Intergovernmental relations.

The city 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 otherwise, with any one or more other municipalities, state, county, or local governments or civil divisions or agencies thereof, or the United States or any agency thereof.

ARTICLE II - CORPORATE LIMITS

Section 2.01. - Boundaries.

The corporate limits of the City of Niceville shall be those presently existing or as the same may be established hereafter.

ARTICLE III - LEGISLATIVE

Section 3.01. - City council.

There shall be a city council with all legislative powers of the city vested therein consisting of five (5) electors of the city, to be elected at large, who shall hold office and be elected as hereinafter provided; and providing, also, that those now holding office as council members may hold office as such, subject to the provisions of this charter, for the terms for which they were respectively elected. In all succeeding elections, council members shall be elected for the terms hereinafter provided. The presiding officer of the city council shall be the mayor.

Section 3.02. - Election and terms.

The regular election of the city council members shall be held on the third Tuesday in July of each odd numbered ~~years~~ year in the manner provided in Article VII of this charter. The council shall consist of five (5) seats called groups. Groups 2 and 4 shall be filled at the regular election to be held in July, 19852019. Groups 1, 3, and 5 shall be filled at the regular election to be held in July, 19872021. The terms of office for the city council shall be for four (4) years.

Section 3.03. - Compensation and expenses.

Council members shall serve without salary but shall be reimbursed for necessary expenses incurred while traveling on or performing city business. Provided, however, that each voucher for such expenses reimbursement shall be line item and shall be submitted to and approved by the council.

Section 3.04. – Mayor pro-tem, appointment and duties.

A mayor pro-tem shall be chosen by and from the members of the council at the regular council meeting in October, ~~1983~~ to serve during the ensuing year. The mayor pro-tem shall be elected annually at each regular meeting of the council in October. ~~He~~ ~~she~~ ~~October~~, ~~he~~ ~~she~~ ~~October~~, ~~he~~ ~~she~~ shall perform the functions, exercise the powers, and carry out the duties of the mayor only in the mayor's absence. In presiding at meetings of the council during the absence of the mayor, the mayor pro-tem shall continue to exercise ~~his~~ ~~her~~ duties to vote.

Section 3.05. – Qualifications of members.

Members of the city council and the mayor shall be bona fide residents and qualified electors of the City of Niceville. The office of any council member or the mayor who shall move from the City of Niceville during the term for which the ~~member~~ was elected shall automatically become vacant from the date of such removal.

Section 3.06. – Prohibitions

- (a) *Holding other office.* No elected or appointed city official shall hold a dual office or hold any compensated, appointive office or position of employment with the City of Niceville until one year after the expiration of the term for which ~~he~~ ~~she~~ ~~they~~ ~~was~~ ~~were~~ elected or appointed.
- (b) *Appointment and removals.* Neither the council nor any of its members nor the mayor shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the city manager or any of ~~his~~ ~~subordinates~~ ~~their~~ ~~subordinates~~ are empowered to appoint, but the council

or the mayor may express their views and fully and freely discuss with the city manager anything pertaining to appointment and removal of such officers and employees.

- (v) *Interference with administration.* The mayor and council and its members shall deal with the city officers and employees who are subject to the direction and supervision of the city manager solely through the city manager, and neither the council nor any member thereof nor the mayor shall give orders to, nor make requests of, any of the subordinates of the city manager either publicly or privately. Any such dictation, order, requests, or other interferences upon the part of a member of the city council or the mayor with the administration of the city shall be brought to the attention of the council for appropriate action including warning, reprimand or other appropriate action.

Section 3.07. - Vacancies, forfeiture of office, filling of vacancies.

- (a) *Vacancies.* The office of a council member or mayor shall become vacant upon his death, incapacity, resignation, or forfeiture of his-the office, such forfeiture to be declared by the remaining members of the council.
- (b) *Forfeiture of office.* A council member or mayor shall forfeit his-the office if he-they lacks at any time during his-the term of office any qualification for the office prescribed by this charter or by law.
- (c) *Filling of vacancies.* A vacancy on the council shall be filled in one of the following ways, not to exceed the unexpired term of each vacancy.
 - (1) If there is less than six (6) months remaining in the unexpired term or if there is less than six (6) months before the next regular city election, the council by a majority vote of the remaining members shall choose a successor to serve until a newly elected council member is qualified.
 - (2) If there are six (6) months or more remaining in the unexpired term and no regular city election is scheduled within six (6) months, the council shall fill the vacancy on an interim basis as provided in (1) and shall schedule a special election to be held no sooner than sixty (60) days, nor more than ninety (90) days following the occurrence of the vacancy. If a runoff election is necessary, it shall be scheduled two (2) weeks following the election.

(3) Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members shall, by majority vote, appoint additional members under (1) or (2) above.

(i) *Extraordinary vacancies.* In the event that all members of the council are removed by death, disability, or forfeiture of office, the Governor shall appoint an interim council that shall call a special election as provided in (c) above and such election shall be held in the same manner as the first election under this charter.

Section 3.08: - Procedure

(a) *Meetings of the council members.* The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. The mayor or any three (3) council members or the city manager may call special meetings of the council upon notice to each member and the public. All meetings shall be public.

(b) *Penalty for absence.* Absence from three (3) consecutive regular meetings of the city council shall operate to vacate the seat of a member or the mayor, unless such absence is excused by council resolution setting forth the facts of such excuse duly entered upon the minutes.

(c) *Rules and minutes.* The council shall determine its own rules and order of business and shall provide for keeping a minute book of its proceedings. The minute book shall be a public record.

(d) *Council action and voting.* All official action of the council shall be effected by ordinance, resolution, or motion as required or appropriate under the applicable law. Voting on ordinances, resolutions, and motions shall be by vote of the city council on final action and shall be reported in the minutes. All council members present shall be recorded as voting "yes" or "no" on all matters before the council except on those matters on which the council member announces in advance a conflict of interest. When a council member announces in advance a conflict of interest, ~~he or she~~ they shall submit a written statement concerning the conflict with forty-eight (48) hours after the meeting at which the conflict was announced. Such statement shall contain the reasons for the conflict of interest.

(e) *Quorum.* A majority of the council shall constitute a quorum. While a majority of the council (being a minimum of three (3) members) constitutes a quorum, the affirmative vote of a minimum of three (3) members shall be necessary to enact any ordinance or resolution, approve any motion, or take any other official action. In the event less than a quorum is present for any regular or special meeting of the council, the said meeting cannot be called to order and the minutes shall so reflect and record the names of the council members present.

(f) *Video Conferencing and Call In.* When council members are unable to attend a meeting, they can utilize technology to video conference or call into the meeting to vote on issues and participate in the meeting as if they were there in person.

Section 3.09. - Ordinances in general.

"Ordinance" means an official legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.

(a) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one subject matter properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection, or paragraph or a section or subsection.

(b) *Procedure.* A proposed ordinance shall be read by title, or in full, on at least ~~three (3)~~ two (2) separate days at either regular or special meetings of the council and shall be noticed two (2) times, commencing at least fourteen (14) days and concluding no more than seven (7) days prior to adoption, in a newspaper of general circulation in the city. The notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances, and the place or places within the city where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(c) *Effective date.* Except as otherwise provided in this charter, every adopted ordinance shall become effective ten (10) days after adoption or as otherwise specified therein.

(ii) *Action requiring an ordinance* In addition to other acts required by law or by specific provisions of this charter to be done by ordinance, those acts of the city council shall be by ordinance which:

- (1) Establish a rule or regulation, the violation of which carries a penalty;
- (2) Levy taxes authorized by general law;
- (3) Grant, renew, or extend a franchise;
- (4) Set service or user charges for municipal services or grant administrative authority for such charges (Ordinance 09-05-03 May 12, 2009 provides that service fee changes will be promulgated by resolution);
- (5) Authorize the borrowing of money not inconsistent with the limitations in the constitution and general law of the state, and as stated herein;
- (6) Convey, lease, or authorize by administrative action the conveyance release of any lands of the city;
- (7) Establish competitive procedures for all work improvements, contracts, and purchases estimated in excess of five hundred dollars (\$500.00).

Section 3.10. - Investigations

The council may make investigations into the affairs of the city and the conduct of any city department, office, or agency including volunteer workers, committee members, or board members, and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the council shall be guilty of a misdemeanor and punishable as provided by law.

Section 3.11. - Emergency ordinances.

To meet a public emergency affecting life, health, property, or the public peace, the city council may adopt one or more emergency ordinances, but such ordinances may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal service; enact or amend a land use plan

or rezone private property, or authorize the borrowing of money except as provided under the emergency appropriations provisions of this section.

- (a) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.
- (b) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of a minimum of four (4) members of the council shall be required for adopting. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.
- (c) *Effective date.* Emergency ordinances shall become effective upon adoption.
- (d) *Repeal.* At the ~~third-second~~ regular meeting of the city council, after the enactment of an emergency ordinance, the council shall hold a public hearing with two (2) newspaper publication notices thereof. At such meeting, the circumstances and conditions existing at the time of the adoption of said emergency ordinance shall be reviewed to determine if the necessity for such ordinance still exists. The council may take such action as appropriate, including the repeal thereof, in their discretion except and provided, however, that such emergency ordinance shall not be repealed if it jeopardizes, impairs, or adversely affects the rights of persons, governmental entities or agencies, private corporations, or other legal entities directly or indirectly accrued as a result of the passage of said emergency ordinance.
- (e) *Emergency appropriations.* The council may make emergency appropriations in the manner provided in this section. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals for any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

ARTICLE IV. - BUDGET¹¹

Footnotes:

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State Law reference— Millage authorization, F.S. Ch. 200; budget adoption procedure, F.S. § 200.055.

Section 4.01. - Budget adoption.

~~With the fiscal year beginning October first~~ The council shall by ordinance adopt a budget on or before the thirtieth day of September of each year or as soon as possible thereafter with due diligence. An ordinance adopting an annual budget shall constitute appropriations of the amounts specified therein as expenditures from funds indicated.

Section 4.02. - Appropriations amendments during the fiscal year.

- (a) *Supplemental appropriations.* If during the fiscal year revenues in excess of those estimated in the budget are available for appropriation, the council by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the city manager that the revenues available will be insufficient to meet the amount appropriated, ~~he~~~~they~~ shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by ~~him~~~~them~~, and ~~his~~~~their~~ recommendations as to any other steps that should be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- (c) *Transfer of appropriations.* At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the city manager the council may by ordinance transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

- (d) *Limitations, effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

ARTICLE V. - AUTHENTICATION, RECORDING AND DISPOSITION OF CHARTER AMENDMENTS, ORDINANCES AND RESOLUTIONS

Section 5.01. - Authentication, recording, and printing.

- (a) *Authentication.* The presiding officer of the council and the person charged with keeping the journal shall authenticate by their signatures all ordinances and resolutions adopted by the council. In addition, when charter amendments have been approved by the electors, the presiding officer of the council and the person charged with keeping the journal shall authenticate by their signatures the charter amendment by the electorate.
- (b) *Recording.* The person charged with keeping the journal shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the council. Ordinances shall, at the direction of the council, be periodically revised and recodified to eliminate errors and to remove obsolete materials. Such revision and recodification shall be performed at least once every four (4) years. The person charged with keeping the journal shall also maintain the city charter in current form and shall enter all charter amendments and send copies of amendments to the secretary of state's office.
- (c) *Printing.* The council shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available to the people of the city at the office of the city clerk for public inspection and available for purchase at cost.

Section 5.02. - Codes of technical resolutions.

The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and such ordinance may amend the code. The procedure and requirements governing such an adopting ordinance shall be prescribed for ordinances generally except that:

- (a) The requirements of section 5.01 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance.
- (b) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk pursuant to subsection 5.01 (a). Copies of any adopted code of technical regulations shall be made available by the designated city official for distribution or purchase at cost.

ARTICLE VI - ADMINISTRATIVE

Section 6.01. - Nepotism prohibited.

No city official or city employee, whether elected or appointed, shall employ or appoint or advocate for appointment or employment any relative whether related by blood or marriage. The term relative is defined in chapter [section] 116.111 of the Florida Statutes as now existing or hereinafter amended.

State Law reference— Restriction on employment of relatives, F.S. § 116.111.

Section 6.02. - Functions, powers, and duties of the mayor

The mayor shall preside at all meetings of the council, ~~and~~ shall perform such other duties consistent with his-the office as may be imposed by it, and ~~he~~ shall have no vote in matters considered by the council. The mayor shall exercise no veto power.

~~He~~ ~~The mayor~~ shall be recognized as head of the city government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of contracts, deeds and other documents, and as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The powers and duties of the mayor shall be such as are conferred ~~upon him~~ by the council in pursuance of the provisions of this charter and no

other. In the absence of the mayor, the selected mayor pro-tem shall perform his duties. The council may delegate to the mayor the power to execute contracts, deeds, and other documents approved by the council, and to represent the city in all agreements with other governmental entities or certification to other governmental entities.

Section 6.03. - Mayor: Qualifications and appointment.

The mayor shall be an elector of the city, and shall have resided therein for at least three (3) years prior to the date on which ~~he~~^{they} qualified for the office of mayor. The mayor shall be elected by a majority of the qualified electors of the City of Niceville, Florida for a term of four (4) years. The initial election date shall be July 21, 1987 and each four (4) years thereafter. Should a candidate not receive a majority vote, a runoff election shall be held ~~two weeks after the third Tuesday in July at the same time and in conformity with runoff elections for members of the city council as provided by appropriate election ordinances. The initial runoff election, if applicable, shall be August 4, 1987.~~ A candidate for mayor shall qualify in the same manner as candidates for the office of city council.

(Ord. No. 615, § 1, 4-14-87)

Section 6.04. - Vacancies.

- (a) If a vacancy occurs in the office of the mayor less than one (1) year prior to the next regularly scheduled city election, the mayor pro-tem shall perform the duties of mayor until a mayor is elected at such election and takes office.
- (b) If a vacancy occurs in the office of the mayor more than one (1) year prior to the next regularly scheduled city election, the mayor pro-tem shall perform the duties of mayor until a mayor is elected at a special election to be called by the council. Such special election shall be held no sooner than sixty (60) days, nor more than ninety (90) days following the occurrence of the vacancy. If a runoff election is necessary, it shall be scheduled two (2) weeks following the election.

(Ord. No. 615, § 2, 4-14-87)

Section 6.05. - Mayor: Expenses.

The mayor shall receive just compensation for reasonable expenses incurred during the performance of the duties of the office of mayor, as approved by the council.

Section 6.06. - City manager.

There shall be a city manager who shall be the chief administrative officer of the city. The manager shall be responsible to the council for the administration of all city affairs placed in ~~his~~~~their~~ charge by or under this charter. ~~He~~~~They~~ shall be chosen on the basis of ~~his~~~~their~~ executive and administrative qualifications and ~~he~~~~they~~ shall serve at the pleasure of the city council. ~~He~~~~They~~ need not be a resident of the city or Florida at the time of ~~his~~~~their~~ appointment, but shall become a resident of the City of Niceville within six (6) months after ~~his~~~~their~~ appointment.

Section 6.07. - Appointment; removal; compensation.

- (a) *Appointment.* The council shall appoint a city manager for an indefinite term by a majority vote of all the council members.
- (b) *Removal.* The council may remove the manager by a majority vote of all the council members.
- (c) *Compensation.* The compensation of the manager shall be fixed by the council.

Section 6.08. - Vacancy in office of city manager.

In the event of the resignation, removal, or permanent incapacity of the city manager, the city council shall fill such vacancy and may appoint an acting city manager if the council decides it needs reasonable time to advertise and select a new city manager.

Section 6.09. - Powers and duties of the city manager.

The city manager shall

- (a) Appoint and, when ~~he~~~~they~~ deems it is in the best interest of the city, suspend, or remove any city employee or appointed administrative officer provided for, by, or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. Suspended or removed employees may request review by council. Suspension or removal may

be subject to review and reversal upon appeal by a four-fifths (4/5) vote of the council. City manager may authorize any administrative officer who is subject to his-~~their~~ direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency, subject to the same appeal procedure.

- (b) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.
- (c) Attend all council meetings and shall have the right to take part in discussion but may not vote.
- (d) See that all laws, provisions of this charter, and acts of the council, subject to his-~~their~~ direction and supervision, are faithfully executed.
- (e) No later than two (2) months before the end of each fiscal year, the city manager shall prepare and submit to the council, in a public hearing, a budget estimate of the expenditures and revenues of all city departments, divisions, and offices for the ensuing fiscal year. Notice of such hearing shall be advertised in the local media by the clerk no less than seven (7) days before it is held. This estimate shall be compiled from detailed information from the several departments, divisions, and offices on uniform blanks furnished by the city manager. The classification of the estimates shall be as nearly uniform as possible for the main functional divisions of such departments, divisions, and offices, and shall give in appropriate columns the following information:
 - (1) A detailed estimate of the expenses of conducting each department, division and office and the proposed method of meeting them for the next fiscal year.
 - (2) Expenditures for corresponding items for the current fiscal year, including adjustment due to transfer between appropriations plus an estimate of the expenditures necessary to complete the current fiscal year.
 - (3) Expenditures for the corresponding items for the last preceding two (2) years if obtainable.
 - (4) The current value of supplies and materials on hand at the date of the preparation of the estimates.

- (5) Increases or decreases of request compared with corresponding appropriation for the current year, with reasons for such increases or decreases.
- (6) A statement from the city clerk indicating total probable income of the city from taxes for the period covered.
- (7) An itemization of anticipated revenue from other sources.
- (8) The total amount of the outstanding city debt, the amount required and interest on the city debt, and the amounts for sinking funds and maturing serial bonds.
- (9) A classified income statement and balance sheet to be given to the council at the planning of the annual budget.
- (10) Provide other such information as may be required by the council.
- (f) Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city.
- (g) Sign and execute contracts on behalf of the city pursuant to the provisions of applicable ordinances.
- (h) Perform such other duties as are specified in this charter or may be required by the council.

Section 6.10. – City clerk.

The majority of the city council shall appoint a city clerk to serve at the pleasure of the council and perform such duties as are specified in this charter or may be required by the council.

Section 6.11. – City clerk qualifications.

The city clerk shall have two (2) years experience in public administration or equivalent and shall establish and maintain residency within the city limits of Niceville within six (6) months after appointment to the office. If during the term of office the city clerk shall cease to possess any of the required qualifications, the office shall be forfeited and the city clerk shall be removed by the city council.

Section 6.12. – City clerk: Salary.

The compensation for the city clerk shall be fixed by the council.

Section 6.13. - City clerk: Vacancy in the office of the city clerk.

Any vacancy in the office of city clerk will be filled within ninety (90) days by the city council.

Section 6.14. - City clerk: Power and duties.

The city clerk shall:

- (a) Attend all meetings of the council and keep the journal of the proceedings of the council.
- (b) Be the registration officer of the municipality.
- (c) Draw and sign vouchers upon the depositories, which vouchers shall be countersigned by the mayor, and keep a true and correct account of same. The clerk shall prepare and submit to the council at the first meeting in each month a statement of all finances, receipts, and disbursements passing through his/her office.
- (d) Sign all licenses issued by the city and issue receipts for all money paid to him/her; and shall deposit said money in the proper depositories on the first regular banking day after receipt.
- (e) Be custodian of all books pertaining to the clerk's office and of city records not otherwise provided for.
- (f) Receive and insure certification of all petitions.
- (g) ~~Prepare~~ Coordinate the preparation of all ballots for secret vote in accordance with this charter; charter. Ballots are prepared by the County Supervisor of Elections Office
- (h) Be the keeper of the city seal.

Section 6.15. - City attorney.

The city council may employ an attorney or attorneys from time to time, or by the year, to perform such legal services as the council may authorize and designate, and pay such attorney for services rendered.

Section 6.16. - City auditor

The city council may employ an auditor or auditors from time to time, or by the year, to perform such legal-auditing services as the council may authorize and designate, and pay such auditor for services rendered.

ARTICLE VII. - NOMINATIONS AND ELECTIONS

Section 7.01. - Electors.

Any person who is a resident of the city, who has qualified as an elector of the State of Florida, and who registers in the procedural manner prescribed by general law and ordinances of the city, shall be an elector of the city.

State Law reference— Qualification and registration of electors, F.S. §§ 98.041 et seq., 166.032.

Section 7.02. - Non-partisan elections.

All nominations and elections for the office of city council shall be conducted on a non-partisan basis (i.e., without regard for or designation of political party affiliation of any nominee or any nomination petition or ballot).

Section 7.03. - Nominations.

Candidates for the offices of city council members shall qualify for such office by filing a petition with the city clerk. The petition shall be notarized, signed by five (5) qualified electors of the City of Niceville, and submitted to the city clerk at least forty-five (45) days before the election. The qualifying period begins at noon on the 498th day prior to the elections and ends at noon on the 469th day prior to the elections. No person shall qualify to run for more than one office in any given election. Each petition must contain an affidavit, to be made by the candidate, that he / she / they is / are a qualified elector.

Section 7.04, – Form of ballots.

- (a) ~~All ballots shall be prepared by the city clerk for secret vote and shall list the names of the candidates in alphabetical order.~~ The City has the option to contract out the ballot preparation services unto the Okaloosa County Supervisor of Elections.
- (b) An ordinance or charter amendment to be voted on by the city electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title, but it shall be a clear, concise statement describing the substance of the measure and shall be without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear the word "yes" and also the word "no" with sufficient blank space thereafter for the placing symbol "X" to indicate the voter's choice or with a lever opposite "yes" and "no" if voting machines are used, unless such wording is contrary to State statutes existing at such time.

State Law reference— Form of ballot, public measure, F.S. § 101.161.

Section 7.05, – Elections.

- (a) Any candidate receiving a majority (greater than 50%) of the votes cast shall be declared elected. If no candidate receives a majority of the votes cast in the election, the names of the two (2) candidates receiving the highest number of votes for each council seat to be filled shall be placed on the ballot for a runoff election. Such election shall be held on the second Tuesday following the election.
- (b) The city council shall meet as a canvassing board and duly canvass, certify and record the ballots within two (2) days after any municipal election ~~when polls close on election day.~~
- (c) Except as herein modified or altered, the provisions of the general laws of the State of Florida, pertaining to state and municipal elections, registration, manner of voting, qualifications of electors, duties of election officers, canvassing returns, and the general holding and management of elections shall apply.

State Law reference— Florida Election Code, F.S. Chs. 97 – 106; canvassing elections, F.S. § 101.68.

ARTICLE VIII. – RECALL, INITIATIVE AND REFERENDUM

Section 8.01. – Recall.

The qualified electors of the city shall have the power to recall from office any elected official of the city under all applicable provisions of the Florida Constitution and Statutes of the State of Florida, including but not limited to Chapter (section) 100.361 of the Florida Statutes as now existing or hereinafter amended.

State Law reference— Recall of municipal officials, F.S. § 100.361.

Section 8.02. – Initiative.

The qualified electors of the city shall have power to propose ordinances to the council and, if the council fails to adopt said ordinance, to adopt or reject it at a city election, provided such petition shall not extend to the budget or salaries of city officers or employees.

Section 8.03. – Referendum.

The qualified voters of the city shall have power to require reconsideration by the council of any adopted ordinance, and, if the council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, providing that such power shall not extend to the budget or any emergency ordinance or ordinances or salaries of city officers or employees.

Section 8.04. – Commencement of proceedings.

Any five (5) qualified electors, one of which shall be designated chairman, may commence initiative and referendum proceedings by filing with the city clerk, or other official designated by the council, an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the

ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners' committee's request, the city clerk shall issue the appropriate blanks to the petitioners' committee at the committee's expense.

Section 8.05. - Petition.

- (a) *Number of signatures.* Such initiative and referendum petitions must be signed by qualified electors of the city equal in number to at least ten (10) percent of the total number of 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 followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- (c) *Affidavit of circulator.* Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers, that all signers were advised they must be residents and electors of the city to sign and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (d) *Time for filing referendum petitions.* Referendum petitions may be filed any time after adoption by the council of the ordinance sought to be reconsidered or repealed.

Section 8.06. - Procedure for filing.

Certification of amendment. Within twenty (20) days after the petition is filed, or within five (5) days for a referendum, the clerk or other official designated by the council shall complete a certificate as to its 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 shall consist solely of noncompliance with the provisions of section 8.05. If the number of signatures is insufficient or the petition is deficient as to form or compliance with this section, the council shall notify the committee filing the petition and allow thirty (30) days for filing of additional petition papers, at the end of which time the sufficiency of the petition shall be finally determined.

Section 8.07. - Action on petitions.

- (j) *Action by council.* When an initiative or referendum petition has been determined sufficient, the council shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the council fails to adopt a proposed initiative ordinance within thirty (30) days, the council shall submit the proposed or referred ordinance to the voters of the city.
- (k) *Submission to voters.* The vote of the electors on a proposed or referred ordinance shall be held not less than thirty (30) days nor more than sixty (60) days from the date that the council rejected the proposed ordinance or refused to reconsider the referred ordinance. Passage of the times provided in (a) above without action by the council, or by the official, shall be considered rejection, refusal or declination. If no regular city election is to be held within the period prescribed in this subsection, the council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except an earlier date within the prescribed period; copies of the proposed or referred ordinance or the recall charges and response shall be made available at the polls.
- (l) *Withdrawing of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the city by filing with the city clerk or other official designated by the council a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Section 8.08. – Referendum petitions; suspension of effect of ordinance.

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

- (a) There is a final determination of insufficiency of the petition;
- (b) The petitioners' committee withdraws the petition;
- (c) The council repeals the ordinance; or
- (d) A vote of the city on the ordinance has been certified.

Section 8.09. - Results of election.

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

ARTICLE IX. - GENERAL PROVISIONS

Section 9.01. - [Amendments.]

This charter may be amended in two (2) ways:

- (a) *Initiation by ordinance.* The council may, by ordinance, propose amendments to any part or all of this charter, except Article II prescribing boundaries. Upon passage of the initiating ordinance, the council shall place the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for such purpose. Amendment of Article II resulting from annexation done in accordance with general law shall be by ordinance of the council and shall not be subject to a vote of the electors except as provided by general law.
- (b) *Initiation by petition.* The qualified electors of the city shall have the right to propose amendments to this charter under all applicable provisions of the Florida Constitution and Statutes of the State of Florida, including but not limited to Chapter [section] 166.031 of the Florida Statutes as now existing or hereinafter amended.

Section 9.02. - Standards of ethics

All elected officials and employees of the city shall be subject to the standards of conduct for public officers and employees set by general law. In addition, the council may, by ordinance, establish a code of ethics for officials and employees of the city which may be supplemental to general law, but in no case may an ordinance diminish the provisions of general law.

State Law reference— Code of ethics, F.S. § 112.311 et seq.

Section 9.03 – Penalties.

Violations of an ordinance shall be punishable in accordance with procedures contained in the ordinance or the uniform fines and penalties set by general law.

Section 9.04 – Severability.

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

Section 9.05 – Conflicting ordinances.

All ordinances and resolutions insofar as they conflict with or are inconsistent with the provisions of this charter shall be and the same are hereby repealed.

Section 9.06 – Continuation in force of nonconflicting ordinances.

All ordinances and resolutions now in force which are not in conflict with the provisions of this charter shall remain in force until they expire by their terms or are repealed.

Section 9.07 – Pending matters.

All rights, claims, liabilities, actions, orders, contracts and legal and administrative proceedings shall continue, except as modified pursuant to the provisions of this new charter, and in each case, shall be maintained, carried on or dealt with by the city department, office or agency appropriate hereunder.

ARTICLE X. - EFFECTIVE DATE

Section 10.01. - Effective date.

~~This ordinance shall take effect only upon its approval of those qualified electors of the City of Niceville voting in a referendum to be held by the City of Niceville in conjunction with the next regular primary or general election, in accordance with the provisions of law relating to elections currently in force in the City of Niceville, or under the procedures for amendment of ordinances pursuant to the City Charter, or Florida Law. This ordinance shall take effect only upon its approval by a majority of those qualified electors of the City of Niceville voting in a referendum to be held by the City of Niceville in conjunction with the next regular primary or general election, in accordance with the provisions of law relating to elections currently in force in the City of Niceville.~~

~~ADOPTED upon third reading in regular session this 13th day of August 2019. This ordinance is subject to approval by referendum as provided in Article X, Section 10.01 above. If this ordinance is not approved as provided in said section, this ordinance shall become void. If this ordinance is approved by a majority of the qualified electors or as provided in said section, this ordinance shall become effective upon its adoption. ADOPTED upon third second reading in regular session this 14th 7th day of June 7, 19832019. This ordinance is subject to approval by referendum as provided in Article X, Section 10.01 above. If this ordinance is not approved by a majority of the qualified electors as provided in said section, this ordinance shall become void. If this ordinance is approved by a majority of the qualified electors as provided in said section, this ordinance shall become effective on the 1st day of October, 1983.~~

~~PASSED AND ENACTED in regular session upon this third and final readingdy, this 13th day of August, 2019~~

Randall Wise

Randall Wise

MAYOR

ATTEST:

Daniel H. Ireland

George H. Ireland

CITY CLERK