

ARTICLE I: TRANSITION SCHEDULE

Section 1-1. Ordinances preserved.

All ordinances in effect upon adoption of this Charter, to the extent not inconsistent with it, shall remain in full force and effect until repealed or changed as provided herein.

Section 1-2. Rights of officers and employees.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption. Elected officials shall continue to hold their offices and discharge the duties thereof until their successors are duly elected.

Section 1-3. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of this Charter.

Commented [RML1]: This Article remains unchanged from the 1976 Charter

ARTICLE II: BOUNDARIES

(This Article shall remain in full force and effect as previously adopted.)

ARTICLE III: FORM OF GOVERNMENT

Section 3-1. Form of government.

The form of government of the City of Palm Beach Gardens shall be that known as the "Council-Manager Plan."

Commented [RML2]: Minor language revision, changed from "Council-Manager Plan" to "Council-Manager" form of government. Original language was somewhat antiquated and no longer commonly used. Form of government remains unchanged...simply a change in vernacular.

ARTICLE IV: THE CITY COUNCIL

Section 4-1. Election; terms, general elections; filing fees; notice; runoff elections.

The elective officers under this Charter shall be the five (5) members of the city council. The selection of members of the city council shall be by groups to be known as Groups 1,2,3,4 and 5. The council members in Groups 2 and 4 shall, in the year 1977, be elected for a term of three (3) years, and for three-year terms thereafter; council members in Groups 1, 3 and 5 shall be elected for a term of three (3) years in the year 1978 and for three-year terms thereafter. The term of office of council members shall commence on the first regularly scheduled meeting of the city council following date of their election and shall continue for three (3) years thereafter and until their successors are elected and qualified. No individual shall be elected to the office of council member for more than two (2) consecutive full terms. Service in a term of office which commenced prior to the effective date of any term limit enacted on council members will be credited against any term limitation approved by the Palm Beach Gardens' electorate.

Commented [RML3]: This sentence has been replaced by the following sentence, "There shall be a city council with all legislative powers of the city vested therein consisting of five (5) members who shall be electors of the city, who shall be elected by the electors of the city."

General elections shall be held on the second Tuesday of March. Any candidate seeking election as council member shall file with the city clerk a written notice to such effect during the last fifteen (15) calendar days of January in the year of the election, and shall pay

such filing fee as shall be set by ordinance. Such notice shall state the number of the group to which he or she seeks to be elected, and any other data required by ordinance. All candidates and council members shall be electors of the city.

Whenever a general or special election is held to fill any elective office in the City of Palm Beach Gardens, the candidate receiving a majority of the votes cast at such election to fill such office shall be declared to be duly elected; provided that in the event no candidate for a particular elective office shall receive a majority of the votes cast for such election to fill such office, then a run-off election shall be held on the fourth Tuesday in March of the same calendar year said general election was held; and in the event a special election is held, and a run-off election is required, then said run-off election shall be held two (2) weeks from date of said original special election; provided further, that in such event only the names of the two (2) candidates having received the greatest number of votes in the general or special election for such office shall be submitted to the voters and the one of these two (2) receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further, that should two (2) or more candidates receive an equal number of votes to any such office, so that it cannot be determined which two (2) had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the run-off election and the candidate receiving the greatest number of votes at such election shall be declared elected to such office, regardless of whether such candidate received a majority of the votes cast to fill such office at such run-off election.

Commented [RML4]: Amended to allow the timing of the election to be changed by ordinance. Amended to provide for the method of qualification to be established by ordinance.

Section 4-2. Oath of office.

Each person appointed or elected as a member of the city council of said municipality, before entering upon the discharge of the duties of the office, shall take and subscribe the following oath before some officer authorized to administer oaths under the laws of the State of Florida: "I do solemnly swear (or affirm) that I will support and protect and defend the Constitution and government of the United States and of the State of Florida against all enemies, domestic or foreign, and that I will bear true faith, loyalty and allegiance to the same; and that I am entitled to hold office under the Constitution and Laws of the State of Florida, and that I will faithfully perform all the duties of the office of Councilman of the City of Palm Beach Gardens, Florida, upon which I am about to enter, so help me God."

Commented [RML5]: Deleted. Oath of office is established and set forth at Art. II, § 5(b), Fla. Const.

Section 4-3. Organization meeting; election of mayor and vice-mayor.

The members of the city council elected pursuant to this article shall meet for organization immediately following their qualification on the next regularly scheduled meeting of the city council following the date of their election and at said meeting the city council shall, by resolution, appoint one member a mayor and another a vice-mayor of the city, each of whom shall hold such office for a term of one year and until his successor shall be appointed and qualified.

Commented [RML6]: Amended in order to specify what constitutes a quorum, to provide for more flexible scheduling of the organizational meeting and to more clearly provide for a vice-mayor pro tempore.

Section 4-4. Vacancy.

In the event of death, disability, resignation or removal of any member of the city council, such vacancy may be filled by the appointment of a temporary new councilman by the remaining

members of the city council, until an election can be held to fill such vacancy. Such election shall be held within sixty (60) days after the death, disability, resignation or removal of a councilman, unless a general election of the City of Palm Beach Gardens shall be held within one hundred eighty (180) days thereafter, whereupon, such election shall be combined with said general election. The person elected to fill the vacancy created by the death, disability, resignation or removal of a member of the city council shall serve in office for the remainder of the designated term of the member of the city council who died, became disabled, resigned or was removed, as set forth herein. The date of any special election shall be fixed by the city council.

In the event the governor of the State of Florida, or any other governmental agency, shall suspend any member of the city council in accordance with law, the remaining members of the city council forthwith upon such suspension order being received in writing shall appoint a temporary, new councilman to fill such temporary vacancy created by the suspension. The appointee thereto shall serve until such time as the suspension shall be terminated; provided, however, in the event the regular term of office of the suspended councilman shall regularly expire during the period of suspension, such council seat shall be filled at the regularly scheduled election. If such suspended councilman shall be later removed from office in accordance with law then such councilman shall be replaced in accordance with the foregoing provisions pertaining to removal.

Commented [RML7]: Amended to revise and clarify the method and timeframe for the filling of vacancies on the city council.

ARTICLE V: GENERAL POWERS*

Section 5-1. Authority under state law.

The said City of Palm Beach Gardens, Florida, shall be and constitute a body politic and corporate and as such shall have perpetual existence and may sue, be sued, defend, plead and be impleaded in all courts and places and shall exercise all the powers, privileges, and functions of municipalities prescribed, authorized and provided in the general laws of the State of Florida fully and completely unless prohibited by or contrary to the provisions of this act [Charter].

Commented [RML8]: Amended and moved to Section 4-1.

Section 5-2. Specific powers.

The municipality hereby established shall have power:

- (1) To license, regulate and control persons, firms, associations and corporations conducting, carrying on or engaged in any business, occupation or profession within the territorial limits of the city and the amount of such licenses and shall not be dependent upon general state revenue law.
- (2) To borrow money temporarily in the name of the city in an amount not exceeding the ad valorem taxes to be collected in any one year.
- (3) To borrow money temporarily in the name of the city during the construction of any public work or improvements, on account of which assessments for benefits are authorized to be made and collected, to an amount not exceeding one hundred (100) percent of the cost of any such work or improvements. To assess property owners for any public improvements made which specially benefits such property by assessing costs and expenses prorated for such improvements.

(4) To provide for street lighting, fire hydrants, garbage collection, sanitary sewer collection and disposal, and for any other municipal or public service, and to build, construct, acquire, own, maintain, operate and lease all structures, land and other equipment necessary therefor except as otherwise provided herein.

(5) To regulate and control the use of any public park, street, road or highway within the territorial limits of said city by any municipality, corporation, firm or individual using any such public street, road or highway for the conduct of gas or water or for telephone or electric light or power poles, lines, subways or conduits or for any other public utility or service.

(6) To prohibit and abate nuisances.

(7) To prohibit, regulate and license the manufacture, sale, storage, keeping or use of any inflammable, explosive or highly combustible material, thing, substance or compound.

(8) To establish a health department and adopt sanitary regulations and ordinances.

(9) To protect life and property.

(10) To prevent drunkenness, vice and immorality.

(11) To preserve the public peace.

(12) To fix penalties to be imposed upon offenders in conviction of violating any of the ordinances of the city; provided, however, that no penalty shall exceed a fine of five hundred dollars (\$500.00), or imprisonment in the city jail or perform labor on the streets or other work of the city for a period not exceeding ninety (90) days, or both such fine and imprisonment.

(13) To establish, regulate and maintain a fire department and a system of fire protection.

(14) To establish, regulate and maintain a police department.

(15) To lay out, open and maintain public streets, roads, parks or other public places, and to cause any public street, road, highway or alley to be vacated, widened, extended or otherwise changed as to its boundaries or location; and to acquire the necessary lands for any purpose, and to require, if the council shall so determine, that any person, firm or corporation subdividing land shall put in and construct streets, sidewalks, water mains or other utilities according to the city specifications before the plat thereof shall be approved by the city council, which such specifications shall equal or exceed existing County of Palm Beach specifications for similar plats.

(16) To cause sanitary and storm sewers and drains to be constructed and maintained together with sewage disposal and treatment plants.

(17) To regulate traffic, the speed of motor vehicles, and the use thereof.

(18) To construct wharves, docks and piers; regulate the speed of boats and watercraft, regulate wharfage, dockage, mooring and anchorage of boats and watercraft; construct bridges, establish ferries and fix the rates of ferriage and tolls; erect all necessary public buildings and public works and control and dispose of the same as the interests of the city may require; to establish bulkhead lines upon all waters within the city, and to adopt ordinances regulating or prohibiting filling of submerged lands outside of such bulkhead lines, which such lines so established shall govern over lines established by any other governmental body of the State of Florida; and to do and perform all other act or acts as shall seem necessary and best adapted to the improvement and general interest of the city.

(19) To maintain any or all of its public buildings or works outside the municipal limits of the city.

(20) To enter into contracts with other municipalities or governmental entities providing for the exercise of any corporate or governmental function; and to cooperate with any other municipality, public corporation or governmental unit in the discharge of its corporate functions.

(21) To establish a building code, electrical code and plumbing code and provide for the issuance of building permits.

(22) To provide regulations and restrictions governing the height, number of stories, construction and size of buildings and other structures, the percentage and portion of a lot that may be occupied, the size of yards, courts, and other open spaces, and the location and use of buildings, structures and land for trade, industry, residences, apartment houses and other purposes. Such regulations may provide for a board of appeals to determine and vary their application in harmony with their general purpose and intent and in accordance with the general provisions of the ordinances; and may also, by a zoning ordinance, regulate buildings and structures according to their construction and the nature and extent of their use and the use of lands therein. All such regulations shall be uniform for each class or kind of buildings or other structures throughout each district, but the regulations in one district may differ from those in other districts, and all such regulations shall be made in accordance with a comprehensive plan and design for one or more of the following purposes: To lessen congestion in the streets, to secure safety from fire, panic and other dangers; to promote health, morals or the general welfare; to provide adequate light and air; to prevent the overcrowding of land or buildings; and to avoid undue concentration of population. Such regulations shall be made with reasonable consideration, among other things, to aesthetics, to the character of the district and its peculiar suitability for particular uses, and with a view of conserving the value of property and encouraging the most appropriate use of land throughout such municipality.

To provide by ordinance for the adoption of a city plan, creation of a city planning, zoning, and appeals board and the appointment of the members thereof by resolution.

The council shall by ordinance prescribe the duties of the city planning, zoning, and appeals board, enact ordinances for the enforcement of the recommendations of the board and prescribe penalties for their violation.

(23) To employ all persons necessary for the successful operation of said city and to fix the amount of compensation to be paid to such employees and prescribe the amount and condition of any bond or bonds executed by any employee.

(24) Except as otherwise provided herein, to have all the powers and privileges granted to municipalities under the general laws of the State of Florida.

(25) To regulate the use of recreational facilities owned by the city, to charge a reasonable fee for the use thereof, or to restrict the use thereof to property owners in or residents of said city when permitted by general law or the constitution of the State of Florida.

(26) To acquire by purchase, gift, devise, condemnation or otherwise, property real or personal, or any real estate or interest therein, within or without the city and for any of the general purposes or operation of the city when public need or convenience may require same, and to improve, sell, lease, mortgage, pledge or otherwise dispose of the same or any part thereof.

(27) To establish, erect, maintain or operate hospitals, jails, houses of detention and correction, parks, golf courses, playgrounds, roads and cemeteries and municipal buildings, works and constructions of every character, including municipal offices, schools, court houses, fire and police stations, infirmaries, asylums, dispensaries, poor houses, crematories, wharves, docks, bridges, markets, auditoriums, municipal theaters 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, and make regulations for the government thereof.

(28) To fill in all low ground in the city and compel owners of low ground in the city to fill the same up to an established grade so as to prevent the breeding of mosquitoes or the spread of disease.

(29) To compel owners of land or riparian rights within the city to remove therefrom all brush, weeds, obnoxious growth of any kind, filth, garbage, trash, debris, decayed buildings or docks in a falling or dangerous condition or the city may do the same and the amount expended therefor shall be a lien against said property and may be enforced by the municipality.

(30) To create a publicity fund which shall be expended for the purpose of advertising the resources and attractions of the city, of aiding and assisting in the work of any organization created by the city council or by others for the advancement of the interests of the city, of encouraging and assisting any public fair or exhibition in the city and of aiding and assisting a band within the city.

(31) To establish and maintain a public library and reading room and to erect or purchase and maintain a building therefor.

(32) To establish, impose and enforce water rates and rates and charges for gas, electricity and all other public utilities or other service, or conveniences, operated, rendered or furnished by the city, and to enact ordinances for the correction of abuses and to prevent unjust discrimination and excessive charges by persons and corporations engaged as common carriers in transporting persons and property or performing other services of a public nature within the city, provided, no franchise term shall exceed thirty (30) years, and no regulatory power shall be exercised by the city with respect to any utility or service regulated by the Florida Public Utilities Commission or state regulatory agencies. Contracts, however, between the City of Palm Beach Gardens and public utilities companies fixing rates shall be legal and enforceable contracts.

(33) To have the power of eminent domain, including but not limited to, the power to purchase, construct, own, maintain, operate, lease or acquire by eminent domain all local public utilities, including transportation facilities, public off-street vehicular parking lots and buildings, electric light works, water supply and distribution systems, and sanitary sewage collection and treatment systems, illuminating or fuel gas sales and distribution systems.

(34) To declare that all territory embraced within the corporate limits of said city shall be a bird sanctuary and to adopt all ordinances necessary to carry this power into effect.

(35) The enumeration of particular powers in this Charter shall not be deemed or held to be exclusive, but in addition to the powers enumerated herein, implied thereby, or appropriate to the exercise hereof, said City of Palm Beach Gardens shall have and may exercise all other powers which are now, or may hereafter be possessed or enjoyed by cities under the Constitution and general laws of this state, and all of the powers of said city, whether expressed or implied, shall be exercised and embraced in the manner prescribed in this Charter, or, when not so prescribed, then in such manner as may be prescribed by ordinance or resolution of the council.

Commented [RML9]: This Article has been replaced in its entirety by Section 4-1 in the proposed charter, as a list of specific city council authority became entirely unnecessary after 1973 when the Chapter 166, F.S. was enacted. Since this Charter was adopted in 1976, after the Home Rule Powers Act, this section should never have been included in the 1976 revision.

ARTICLE VI: ADMINISTRATION AS COUNCIL-MANAGER GOVERNMENT

Section 6-1. City manager.

Commented [RML10]: Moved to Section 5-1.

(a) The city council, by a majority vote of its membership, shall appoint a city manager who shall serve at the pleasure of the city council. The city manager shall be appointed on the basis of executive and administrative qualifications as established by the council. The city manager need not be a resident of the city at the time of appointment, however, must be a resident within one year following the appointment. The compensation and benefits of the city manager shall be as determined by the city council. The city council shall annually review the manager's performance. The city manager shall designate in writing, filed with the clerk, an individual who shall perform the duties of the city manager during his/her temporary absence.

Commented [RML11]: This provision has been deleted as it is more appropriately a contractual issue and may serve to eliminate very qualified candidates for City Manager, especially during challenging economic times.

(b) The city manager shall be the administrative head of the municipal government under the laws and Charter of the city responsible to the city council for the administration of all city affairs and employees placed in the manager's charge by or under this Charter or city ordinances. In the event of his/her absence or disability, the city manager may designate an employee or other charter officer as the acting city manager limited to the time of the manager's absence or disability.

(c) The city manager shall be responsible to the city council for the proper administration of all affairs of the city coming under his/her jurisdiction, and to that end the city manager's powers and duties include:

- (1) To see that the laws and ordinances are enforced.
- (2) Prepare and submit an annual budget to the city council for its consideration.
- (3) To attend all meetings of the city council with right to take part in the discussion but without having a vote.
- (4) To recommend to the council for adoption such measures as he/she may deem necessary or expedient in the interest of the city. To keep the city council fully advised as to the financial condition and needs of the city and to submit for its consideration an annual budget.
- (5) To appoint all department heads subject to confirmation by the city council; to employ and remove all other employees of the city. Provided further, however, that the city attorney, city engineer and city auditor shall be appointed and removed in the sole discretion of the city council with such appointments and removals being based upon merit and fitness alone.
- (6) To make such reports as the city council may require concerning the operations of the city departments.
- (7) To perform such other duties as may be specified in this charter, by law, or as the city council may prescribe.
- (8) To retain such specialized professional services as may be necessary to effectively and efficiently conduct the city's affairs in accordance with state and local laws.

(d) No member of the city council shall dictate the appointment of any person to office or employment by the city manager or in any manner interfere with the city manager or prevent him/her from exercising his/her own judgment in the appointment of officers and employees in the administrative service. The council and its members shall deal with city employees solely through the city manager.

(e) The city council may suspend or remove the city manager by resolution approved by a majority of the total membership of the city council. The resolution shall set forth the reasons for suspension or removal. A copy of such resolution shall be served immediately upon the city manager. The city manager shall have ten calendar days in which to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than ten days nor later than 15 days after such hearing is requested. After the public hearing, if one was requested, the city council by a majority vote of its membership may adopt a final

Commented [RML12]: Deleted in its entirety as it conflicts with the Council-Manager form of government. City Attorney serves at the pleasure of the City Council in accordance with the Rules of the Florida Bar regulating the professional conduct of attorneys. City Engineer works for the City Manager. The City Auditor (i.e., the firm or individual who conducts the city audit) is selected by the City Council in accordance with state law.

resolution of removal. The city manager shall continue to receive full salary and benefits until the effective date of the resolution of removal.

(f) By letter or memorandum filed with the city clerk, the city manager shall designate a city officer or employee to exercise the powers and perform the duties of city manager during the manager's absence or disability. The city council may revoke such designation at any time and appoint another officer or employee of the city to serve until the city manager returns.

Commented [RML13]: Amended for simplification and elimination of a "hearing" regarding removal or suspension of the City Manager.

Sec. 6-2. City attorney.

(a) The city council, by a majority vote of its membership, shall appoint a city attorney. The compensation and benefits of the city attorney shall be as determined by the city council. The city may appoint a firm or an individual to serve as the city attorney.

(b) The city attorney shall be the chief legal officer of the city responsible for all legal affairs of the city, and shall serve as chief legal advisor to the city council, the city manager, the city's departments and such boards or committees as are placed in the city attorney's charge by the city council or the city manager. The city attorney's powers and duties shall include:

(1) Preparing or reviewing as to form and legal sufficiency all contracts, resolutions, ordinances or other documents of the city.

(2) Appointing such assistant city attorneys to perform the duties of his office as may be approved by the city manager.

(3) Prosecuting and defending all legal or administrative law actions wherein the city is a Party.

(4) Performing such other legal services as may be requested by the city council or the city manager.

(5) Performing such other duties as may be required by state law, this charter or ordinance.

(c) The city council or the city manager may also appoint one or more special counsel to serve as legal advisors to the city council, the city manager and city departments, officers and agencies with respect to specific legal proceedings or matters to conduct city affairs in an efficient manner in accordance with state law, this charter or ordinance of the city.

Commented [RML14]: Moved to Section 5-2.

ARTICLE VII: MERIT SYSTEM

Section 7-1. Merit principle.

All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by professional evaluation or other evidence of competence.

Section 7-2. Personnel system.

Consistent with all applicant federal and state laws, the city council shall provide by ordinance for the creation, regulation and maintenance of a personnel system with established procedures and policies including, but not limited to, appointments, classification and pay plans, promotions, force reduction, removals, working conditions, grievances, relationships with employee organizations and other policies and procedures necessary to the administration of the city personnel system.

Commented [RML15]: Deleted in its entirety. Conflicts with the Council-Manager form of government.

ARTICLE VIII: DEPARTMENT HEADS

Section 8-1. Salary, duties, powers and complaint.

The city manager shall establish such departments and appoint such department heads as are necessary to the efficient management of the city.

The head of each department in the city government shall have governmental supervision of such department and shall see that the subordinate officers and employees in such department comply with and enforce all ordinances, laws and rules relating to the powers and duties of each department.

All complaints to any department head concerning the failure of that department or any of its officers or employees to comply with or enforce any ordinance, law or rule of the city shall be in writing and signed by the complainant. It shall then be the duty of that department head to investigate the complaint and make a report of his/her findings and recommendations to the city manager within fifteen (15) days thereafter or within such longer period of time as the city manager may grant for good cause shown.

Any conflict of powers or duties between departments shall be resolved by the city manager. are necessary to the efficient management of the city.

Commented [RML16]: Deleted in its entirety as it conflicts with Council-Manager form of government.

Section 8-2. Compensation of mayor and council members.

The salaries of the mayor and council members shall be fixed by ordinance, provided, however, that the council shall not raise the salaries of the city council or the mayor during any fiscal year in which the ordinance raising salaries is adopted, but it may raise or lower salaries of all members of future councils, to take effect during the fiscal year following the adoption of an ordinance to that effect.

Commented [RML17]: Moved to Section 4-5.

ARTICLE M: APPOINTMENT, POWERS AND DUTIES OF CITY OFFICERS

Section 9-1. Powers and duties of the mayor.

The mayor shall preside as chairman at meetings of the city council, shall be recognized as head of 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 other governmental meetings, but shall have no administrative duties except as required to carry out the responsibilities herein. The mayor shall have a voice and vote in the proceedings of the city council.

The vice-mayor shall assume the duties of the mayor during the absence or disability of the mayor.

In the absence or disability of both the mayor and vice-mayor, the city council may appoint a chairman pro tem to fulfill the duties and functions of said office.

Commented [RML18]: Moved to Section 4-6.

Section 9-2. Powers and duties of the city clerk.

The city clerk shall be in charge of all general office administration involving the day-to-day business of the city and shall maintain all city records which the city manager may prescribe by administrative rules of procedure, attest all executory contracts made in behalf of the city as evidence of authorization of such contracts by the city council; and no executory contracts made in behalf of the city or to which the city is a party shall be valid unless attested by the city clerk. [The city clerk shall] perform such other duties as the city council may prescribe by ordinance.

Commented [RML19]: Deleted. Conflicts with the Council-Manager form of government.

Section 9-3. Powers and duties of the city treasurer.

The city treasurer shall receive, safely keep and disburse, under the direction of the council, all funds belonging to or under the control of the municipality; shall keep an accurate account of all receipts and disbursements in such manner as the city manager shall direct. The treasurer shall deposit funds of the city in such banks or trust companies as the city manager shall from time to time designate; and all checks drawn upon any depository of the city funds shall be signed by the treasurer unless otherwise provided by resolution of the council, and no money shall be paid except by check, unless express authority to do so has been first given to the treasurer by the city manager. All checks drawn upon depository of city funds shall be countersigned by those persons designated by resolution of the city council.

Commented [RML20]: There is no City Treasurer. This language and this job is outdated.

ARTICLE X REMOVAL OF COUNCILMEN

Section 10-1. Procedure.

Any member of the city council of the said city may be removed from office and deprived of the right to serve as such official for misfeasance, nonfeasance, malfeasance or any conduct of an immoral or criminal nature committed while holding office; but, before any such official shall be removed and denied the right to perform his official duties, a written complaint shall be filed with and presented to the city council by some citizen or taxpayer of said city, setting forth in reasonable detail the offense of which the said official is charged. Such complaint shall be considered by the city council, and if such council shall determine that the offense charged is of such nature and gravity as to constitute a ground, or cause, for the removal of such official, the council shall thereupon set a date for the hearing of the said complaint and direct the chief of police, or some other officer of the city, to give the official so charged written notice of the date of trial and also deliver to him a copy of the complaint so filed. Upon the trial of such complaint, testimony shall be heard by the council, both in support and in defense of the charges made, and both the complainant and defendant shall have the right to be represented by counsel; and, if a majority of the members of the council present at such hearing shall find and determine that such official is guilty of either or all of the offenses as charged in the complaint, the council shall thereupon adopt a resolution removing such official and depriving him of the right to perform his official duties and declaring his office vacant; and the said official shall no longer have the privilege of performing his official duties, his office shall be vacated and his successor shall thereafter be selected in the manner provided herein.

Upon any trial under the provisions of this article, all witnesses shall give testimony under oath and any member of the council present at such hearing, or the mayor or the city clerk shall be authorized to administer oaths.

Commented [RML21]: Deleted in its entirety as it conflicts with the method through which elected officials may be recalled as set forth at Section 100.361, F.S.

Section 10-2. Incumbent officer to turn over records to successor.

It shall be the duty of every officer of the city within ten (10) days after the expiration of his term of office or of his removal therefrom to deliver to his successor in office, or to such person as the city council may designate, all books, records, papers, vouchers and property of every kind in his possession or control belonging to the municipality.

Commented [RML22]: Moved to Section 4-8.

ARTICLE XI: RESERVED*

ARTICLE XII: CREATION OF CITY OFFICES; BONDS OF CITY EMPLOYEES

Section 12-1. Creation of offices.

The city council shall have the power and is hereby authorized to create such offices as may, in its judgment, be necessary for proper operation of the city and may in its judgment abolish any office created. The city council shall have the power to prescribe the powers, duties and compensation of all officers and employees of the city except those prescribed by this Charter.

Commented [RML23]: Amended in order to de-conflict with Council-Manager form of government and moved to Section 4-9.

Section 12-2. Bonds of employees.

Any officer or employee of the city may be required to give such bond as the council may prescribe by resolution.

Commented [RML24]: Deleted in its entirety. Conflicts with the Council-Manager form of government.

ARTICLE XIII: ANNUAL AUDIT*

Section 13-1. Reparation and publication.

The city manager, at the end of each fiscal year, shall cause a full and complete examination and audit of all books and accounts of the city to be made by a certified public accountant and shall publish the results of such examination and audit for information of the city council and the general public and in compliance with the general statutes of the State of Florida. The city council may require, during the fiscal year, such other financial reports as it deems necessary.

Commented [RML25]: Deleted in its entirety. Section 218.39, F.S. already requires the City to conduct an annual audit and file a Combined Annual Financial Report (CAFR) with the Dept. of Financial Services.

ARTICLE XIV: RESERVED

ARTICLE XV: THE RECALLS

Section 15-1. Mayor, any councilman or any elected official may be recalled.

The mayor, any councilman or any other elected official may be recalled and removed from his or her respective office as provided under the general statutes of Florida.

Commented [RML26]: Moved to Section 4-10.

ARTICLE XVI: INITIATIVE AND REFERENDUM

Section 16-1. Passage or repeal of ordinance; petition; procedure.

The qualified voters of the city shall have the power to institute initiative and referendum procedures as provided by general law of the State of Florida.

Commented [RML27]: Moved to Section 7-1.

ARTICLE XVI: ELECTIONS**

Section 17-1. Regulation by ordinance.

The city council shall, by ordinance, provide for and regulate the registration of voters and the conduct of elections in accordance with the general law of Florida.

Commented [RML28]: Amended and moved to Section 6-1. Registration of electors deleted in accordance with Chapter 97, F.S.

Section 17-2. Qualification of electors.

A person who shall possess the qualifications of an elector under the general laws of Florida governing elections and shall reside in the city and shall have registered in accordance with law shall be entitled to vote at any election conducted by the city.

Commented [RML29]: Deleted in accordance with Chapter 97, F.S.

ARTICLE XVIII. ORDINANCES AND RESOLUTIONS*

Section 18-1. Meeting and procedure of city council.

The city council shall meet at such time and place as may be prescribed by resolution. All meetings of the city council shall be open to the public. The enacting clauses of all ordinances shall be "Be it ordained by the city council of the City of Palm Beach Gardens, Florida" and the procedure for adopting ordinances and resolutions shall be as follows:

- (1) As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:
 - (a) Ordinance means an official legislative action of a governing body, which action is a regulation of a general and permanent nature and enforceable as a local law.
 - (b) Resolution means an expression of a governing body concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the governing body.
- (2) Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.
- (3)
 - (a) A proposed ordinance may be read by title, or in full, on at least two (2) separate days and shall, at least fourteen (14) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. 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 municipality 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.

- (b) The governing body of a municipality may, by two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph (a) of this subsection.
- (c) A proposed resolution may be read by title only when authorized by a majority vote of the city council. A majority of the members of the governing body shall constitute a quorum. An affirmative vote of a majority of a quorum present shall be necessary to enact any ordinance or adopt any resolution; except that two-thirds of the membership of the board is required to enact an emergency ordinance. On final passage, the vote of each member of the governing body voting shall be entered on the official records of the meeting. All ordinances or resolutions passed by the governing body shall become effective ten (10) days after passage or as otherwise provided therein.

Commented [RML30]: Deleted in its entirety as such procedures and notice requirements are preempted by Chapter 166, F.S., and the Florida Constitution.

Section 18-2. Reserved.

Section 18-3. City council meetings.

The city council shall hold at least one regular meeting a month and as many special meetings as may be necessary to conduct the business of the city. The number of regular meetings in excess of one and the dates of regular meetings shall be set by resolution of the city council or by a majority of all members of the city council. Special meetings may be called in an emergency when the business to be transacted cannot be held over until the date of a regular meeting. The minutes of the special meeting shall contain a statement of the purpose of the meeting and the circumstances of the emergency. Special meetings may be called by the mayor or by a majority of all members of the city council. All meetings of the city council shall be held in the city hall, or in the event that city hall is not convenient for the holding of a meeting, then a meeting of the city council may be held in such other place in the City of Palm Beach Gardens as the city council may determine, provided, however, that notice of the time and place of any meeting of the city council other than in the city hall shall be posted at least five (5) consecutive days before said meeting at the city hall. The city council may determine its own rules of procedure, may punish its own members for misconduct and may compel attendance of members. The majority of all the members of the council shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

Commented [RML31]: Amended in part and moved to Section 4-3 with the remainder deleted as this section places cumbersome additional notice requirements in the event a special city council meeting is required. Basically, most of the language in this section is superfluous as the city council already has the power and authority to do all of these things.

Section 18-4. Posting or publication of ordinances.

It shall be the duty of the city clerk to keep a record of all ordinances adopted by the council in a book kept for that purpose. A copy of any ordinance therefrom, certified to by the clerk under the seal of the city, shall be taken and considered in all courts of this state as prima facie evidence that such ordinance was duly passed and posted or published as required by law. It shall be the duty of the city council to keep a record of all ordinances enacted by it. The council shall post all proposed ordinances at the city hall during the period between the first and second readings and it shall promulgate without unnecessary delay all ordinances that have been passed, and post the same at the city hall in a book kept for that purpose.

Commented [RML32]: Deleted in its entirety. Preempted by Dept. of State, GS-1SL records retention regulations, Florida Rules of Evidence.

Section 18-5. Franchises.

Subject only to the provisions of the Constitution of the State of Florida and this Charter, the city council may grant franchises for public utilities, transportation facilities, or for any other lawful purpose whatsoever for terms not to exceed thirty (30) years. At the discretion of the council, it may grant to private concern the right to construct, maintain and operate public or quasi-public projects for terms not to exceed thirty (30) years. No public franchise of any description shall be granted except by ordinance. Whenever such an ordinance has been passed upon its first reading by the council, the council shall have the same posted publicly in full, entitled "A Proposed Ordinance of the City of Palm Beach Gardens Granting a Public Franchise," for a period of thirty (30) days before the council shall take further action thereon. If such ordinance is amended after such posting, it shall be considered as again up for the first reading. Upon passage the ordinance shall again be posted as herein required.

Commented [RML33]: Deleted in its entirety. Chapter 166, F.S. already provides for the municipal authority to enter into franchise agreements.

ARTICLE XIV: RESERVED

ARTICLE XX: RESERVED

ARTICLE XXI: RESERVED

ARTICLE XXII: CHARTER AMENDMENT

Sec. 22-1. Charter review.

As often as the council may deem necessary, but in any event, not less frequently than every five years, the terms and provisions of this Charter shall be reviewed.

Commented [RML34]: Deleted in its entirety. City Council may conduct a charter review whenever they so desire. Neither our State Constitution nor our Federal Constitution contain requirements to conduct a review of them in order to determine whether they should be amended. A charter or constitution should not require amendment every five (5) years.