

## Committee Substitute for Senate Bill No. 2622

An act relating to Monroe County; creating the City of Marathon; providing legislative intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a city council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing for payment of expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of council members; providing that certain interference with city employees shall constitute malfeasance in office; providing penalties; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing for appropriations amendments; providing limitations; providing for appointment of charter officers, including a city manager and city attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiatives and referenda; providing the city a transition schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for accelerated entitlement to state shared revenues; providing for a solid waste collection plan; providing for gas tax revenue; providing for transition agreement between Monroe County and the City of Marathon; providing land descriptions of the city; providing for future amendments of the charter; providing for standards of conduct in office; providing for the City of Marathon to receive infrastructure surtax revenues; providing for severability; providing for a referendum approval; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act, together with any future amendments thereto, shall be known and may be cited as the “City of Marathon Charter,” hereinafter referred to as “the charter.”

Section 2. Legislative intent.—The Legislature finds and declares that:

(1) The greater Marathon area in Monroe County includes a compact and contiguous community of approximately 12,000 residents susceptible to urban services, and constitutes a community amenable to separate municipal government.

(2) It is in the best interests of the public health, safety, and welfare of the residents of the Marathon area to form a separate municipality for the

Marathon area with all the powers and authority necessary to provide adequate and efficient municipal services to its residents.

(3) It is intended that this charter and the incorporation of the Marathon area shall serve to preserve and protect the distinctive characteristics of the individual communities within the boundaries of the City of Marathon.

Section 3. Incorporation of municipality; corporate limits.—There is hereby created, effective November 30, 1999, in Monroe County, a new municipality to be known as the City of Marathon, which shall have a council-manager form of government. The corporate boundaries of the City of Marathon, hereinafter referred to as “the city,” shall be as described in section 10.

Section 4. Municipal powers.—The city shall be a body corporate and politic and shall have all the powers of a municipality under the State Constitution and laws of the State of Florida, as fully and completely as though such powers were specifically enumerated in this charter, unless otherwise prohibited by or contrary to the provisions of this charter. The city shall have all governmental, corporate, and proprietary powers necessary to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal services unless expressly prohibited by law. The powers of the city shall be liberally construed in favor of the city.

Section 5. City council.—

(1) CITY COUNCIL; COMPOSITION; QUALIFICATIONS OF COUNCIL MEMBERS.—

(a) There shall be a five-member city council, consisting of council members each elected from and representing the city at large.

(b) There shall be five separate council seats to be designated as Seat 1, Seat 2, Seat 3, Seat 4, and Seat 5. Candidates must qualify for council elections by seat, and council members elected to those seats shall hold Seats 1 through 5, respectively.

(c) To qualify for office:

1. Each candidate for the office of city council shall be a registered voter in the State of Florida and a resident of the city.

2. At the time of qualification, each candidate for a council seat shall reside within the boundaries of the city and, if elected, shall maintain such residency throughout his or her term of office. For the initial election, following the referendum approving the creating of the city, candidates for office shall qualify as provided in paragraph (2) of section 9. Thereafter, candidates shall qualify as provided in paragraph (3) of section 8.

(2) TERM OF OFFICE.—The term of office for council members shall be 2 years. Each council member shall remain in office until a successor is elected and assumes the duties of the position, except as otherwise provided

herein. No council member shall serve more than three consecutive terms of office.

(3) THE MAYOR; POWERS AND DUTIES.—

(a) The city council, at its first regular meeting after the fourth Tuesday of each February, shall elect from its membership a mayor and a vice mayor who shall serve at the pleasure of the city council and who shall have the same legislative powers and duties as any other council member, except as provided in paragraph (b).

(b) In addition to carrying out the regular duties under paragraph (a), the mayor shall preside at the meetings of the council and shall be recognized as the head of city government for service of process, ceremonial matters, and the signature or execution of ordinances, contracts, deeds, bonds, and other instruments and documents. The mayor shall have no administrative duties other than those necessary to accomplish these actions, or such other actions as may be authorized by the city council, consistent with general or special law.

(4) THE VICE MAYOR.—The vice mayor shall serve as acting mayor during the absence or disability of the mayor. In the absence of the mayor and the vice mayor, the remaining council members shall select a council member to serve as acting mayor.

(5) COMPENSATION AND EXPENSES.—City council members shall not be compensated, but shall be entitled to receive reimbursement in accordance with Florida Statutes for authorized travel and per diem expenses incurred in the performance of their official duties. The city council, by not less than four affirmative votes, may elect to provide for compensation by ordinance. However, no such ordinance establishing compensation shall take effect until the date of commencement of the terms of council members selected at the next regular election which follows the adoption of said ordinance.

(6) GENERAL POWERS AND DUTIES OF COUNCIL.—Except as otherwise prescribed herein or provided by law, legislative and police powers of the city shall be vested in the council. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the city by law.

(7) VACANCIES; FORFEITURE OF OFFICE; SUSPENSION; FILLING OF VACANCIES.—

(a) Vacancies.—A vacancy in the office of a council member shall occur upon the death of the incumbent, removal from office as authorized by law, resignation, appointment to other public office which creates dual office holding, judicially determined incompetency, or forfeiture of office as described in paragraph (b).

(b) Forfeiture of office.—A council member shall forfeit his or her office upon determination by the council, acting as a body, at a duly noticed public meeting that he or she:

1. Lacks at any time, or fails to maintain during his or her term of office, any qualification for the office prescribed by this charter or otherwise required by law;

2. Is convicted of a felony, or enters a plea of guilty or nolo contendere to a crime punishable as a felony, even if adjudication is withheld;

3. Is convicted of a first degree misdemeanor arising directly out of his or her official conduct or duties, or enters a plea of guilty or nolo contendere thereto, even if adjudication of guilt has been withheld;

4. Is found to have violated any standard of conduct or code of ethics established by law for public officials and has been suspended from office by the Governor, unless subsequently reinstated as provided by law; or

5. Is absent from three consecutive regular council meetings without justifiable reason, or for any other reason established in this charter.

(c) Suspension from office.—A council member shall be suspended from office upon return of an indictment or issuance of any information charging the council member with any crime which is punishable as a felony or with any crime arising out of his or her official duties which is punishable as a first degree misdemeanor. Pursuant thereto:

1. During the period of suspension, the council member shall not perform any official act, duty, or function, or receive any pay, allowance, emolument, or privilege of office.

2. If the council member is subsequently found not guilty of the charge, or if the charge is otherwise dismissed, reduced, or altered in such a manner that suspension would no longer be required as provided herein, the suspension shall be lifted and the council member shall be entitled to receive full back pay and such other emoluments or allowances as he or she would have been entitled to had the suspension not occurred.

(d) Filling of vacancies.—

1. If a vacancy occurs in the office of mayor, the vice mayor shall serve as mayor until a new mayor is elected as provided in paragraph (3)(a) and assumes the duties of his or her office.

2. If any vacancy occurs in the office of any council member and the remainder of the unexpired term is less than 81 days, the remaining council members shall, within 30 days following the occurrence of such vacancy, by majority vote, appoint a person to fill the vacancy for the remainder of the unexpired term. If, however, the remainder of the unexpired term is 81 days or more, the remaining council members shall, within 30 days following the occurrence of such vacancy, by majority vote, appoint a person to fill the vacancy until the next regularly scheduled city election.

3. Any person appointed to fill a vacant seat on the council shall be required to meet the qualifications of the seat to which he or she is appointed.

(8) CITY COUNCIL MEETINGS.—The council shall conduct regular meetings at such times and places as the council shall prescribe by resolution. Such meetings shall be public meetings within the meaning of s. 286.011, Florida Statutes, and shall be subject to notice and other requirements of law applicable to public meetings. Pursuant thereto:

(a) Special meetings may be held at the call of the mayor or, in his or her absence, at the call of the vice mayor. Special meetings may also be called upon the request of a majority of the council members. Unless of an emergency nature, the person or persons calling such a meeting shall provide not less than 72 hours' prior notice of the meeting to the public.

(b) Elected or reelected council members shall be inducted into office at the first regularly scheduled meeting following certification of their election.

(c) A majority of the council shall constitute a quorum. No action of the council shall be valid unless adopted by an affirmative vote of the majority of the council members in attendance, unless otherwise provided by law. All actions of the city council shall be by ordinance, resolution, or motion.

(9) CITY RECORDS.—The council shall, in a properly indexed book kept for the purpose, provide for the authentication and recording in full of all minutes of meetings, and all ordinances and resolutions adopted by the council, and the same shall at all times be a public record. The council shall further maintain a current codification of all ordinances. Such codification shall be printed and shall be made available for distribution to the public on a continuing basis. All ordinances or resolutions of the council shall be signed by the mayor, or vice mayor in the absence or disability of the mayor, or by the acting mayor in the absence or disability of both the mayor and the vice mayor, and attested to by the city clerk.

(10) ADOPTION OF CODES.—The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and may amend the code in the adopting ordinance or later amendatory ordinance. The procedures and requirements governing such an adoption ordinance shall be prescribed for ordinances generally, except that:

(a) Requirements regarding distributing and filing of copies of the ordinance shall not be construed to require distribution and filing of copies of the adopted code of technical regulations, except as provided in paragraph (b).

(b) A copy of each adopted code of technical regulations, as well as of the adoptive ordinance, shall be authenticated and recorded by the city clerk.

(11) LIMITATION OF EMPLOYMENT OF COUNCIL MEMBERS.—No council member shall be in the employment of the city while in office, nor shall any former council member be employed by the city until after the expiration of 1 year from the time of leaving office.

(12) NONINTERFERENCE BY CITY COUNCIL.—Except for the purposes of inquiry and information, the council and its members, including committees thereof, are expressly prohibited from interfering with the performance of the duties of any employee of the city government who is under

the direct or indirect supervision of the city manager or city attorney. Such action shall be malfeasance within the meaning of s. 112.51, Florida Statutes, and shall be punishable as provided in s. 112.317, Florida Statutes.

Section 6. Budget and appropriations.—

(1) FISCAL YEAR.—The city shall have a fiscal year which shall begin on October 1 of each year and end on September 30 of the succeeding year.

(2) BUDGET ADOPTION.—The council shall by resolution adopt a budget on the 30th day of September of each year, following a minimum of two public hearings on the proposed budget. A resolution adopting the annual budget shall constitute appropriation of the amounts specified therein as expenditures from funds indicated.

(3) APPROPRIATION 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 resolution may make supplemental appropriations for the year in an amount not to exceed 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, the city manager shall report same to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and 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, the council may by resolution reduce one or more appropriations accordingly.

(c) 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 unencumbered balance thereof. Other provisions of law to the contrary notwithstanding, the supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 7. Charter officers.—

(1) DESIGNATION.—The city manager and the city attorney are redesignated as charter officers, except that the office of the city attorney may be contracted to an attorney or law firm.

(2) APPOINTMENT; REMOVAL; COMPENSATION; FILLING OF VACANCIES.—

(a) The charter officers shall be appointed by a majority vote of the full council and shall serve at the pleasure of the council.

(b) The charter officers shall be removed from office only by a majority vote of the full council. Upon demand by a charter officer, a public hearing shall be held prior to such removal.

(c) The compensation of the charter officers shall be fixed by the city council.

(d) The city council shall begin the process to fill a vacancy in a charter office within 90 days after the vacancy. An acting city manager or an acting city attorney may be appointed by the council during a vacancy in such charter office.

(e) A charter officer shall not be a candidate for city council while holding his or her charter officer position.

(3) CITY MANAGER.—The city manager shall be the chief administrative officer of the city.

(a) Qualifications.—The city manager shall be selected on the basis of experience, expertise, and management ability as it pertains to running municipal government.

(b) Powers and duties.—The city manager shall:

1. As the chief administrative officer of the city, direct and supervise the administration of all departments, offices, and agencies of the city, except the offices of city attorney, and except as otherwise provided by this charter or by law.

2. Appoint, suspend, or remove any employee of the city or appointive administrative officer provided for by or under this charter, except the office of city attorney, and except as may otherwise be provided by law, this charter, or personnel rules adopted pursuant to the charter. The city manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

3. Ensure that all laws, provisions of this charter, and acts of the council are faithfully executed.

4. Prepare and submit the annual budget and capital program to the council in the form prescribed by ordinance.

5. Attend meetings of the city council.

6. Draw and sign vouchers upon depositories as provided by ordinance, and keep or cause to be kept a true and accurate account of same.

7. Sign all licenses issued by the city, and issue receipts for all moneys paid to the city, and deposit said moneys in the proper depositories on the first banking day after receipt. The city manager may delegate the responsibilities of this subparagraph to an appropriate city employee who shall be bonded.

8. Provide administrative services in support of the office duties of the mayor and the council.

9. Keep the council advised as to the financial condition and future needs of the city and make recommendations to the council concerning the affairs of the city.

10. Submit to the city, and make available to the public, a complete report on finances and administrative activities of the city as of the end of the fiscal year.

11. Sign contracts on behalf of the city to the extent authorized by ordinance.

12. Perform such other duties as are specified in this charter or as may be required by the council.

(4) CITY ATTORNEY.—The city attorney shall be the chief legal officer of the city.

(a) Qualifications.—The city attorney shall be a member of The Florida Bar in good standing.

(b) Powers and duties.—The city attorney:

1. Shall serve as chief legal advisor to the city council, the charter officers, and all city departments, offices, and agencies.

2. May hire such assistants as may be required, when approved by the city council.

3. Shall attend city council meetings unless excused by the city council, and shall perform such professional duties as may be required by law or by the council in furtherance of the law.

4. Shall prepare an annual budget for the operation of the office of the city attorney and shall submit this budget to the city manager for inclusion in the annual city budget, in accordance with uniform city procedures.

Section 8. Elections.—

(1) ELECTORS.—Any person who is a resident of the city, who has qualified as an elector of this state and who registers in the manner prescribed by law, shall be an elector of the city.

(2) NONPARTISAN ELECTIONS.—All elections for the city council members shall be conducted on a nonpartisan basis without any designation of political party affiliation.

(3) QUALIFYING FOR OFFICE.—Any resident of the city who wishes to become a candidate for a city elective office shall qualify with the city clerk no sooner than noon on the last Tuesday in December nor later than noon on the second Tuesday in January of the year in which the election is to be held.



(4) SCHEDULE FOR GENERAL ELECTIONS AND RUNOFFS.—The regular city election shall be the second Tuesday in February of each election year. Such city elections shall be general city elections. In the event no candidate for an office receives a majority of the votes cast for said office, then a runoff election shall be held on the fourth Tuesday in February.

(5) SCHEDULE FOR OTHER ELECTIONS.—

(a) An election to fill the remainder of an unexpired term shall be held as provided in subsection (4).

(b) Special municipal elections shall be held in the same manner as regular elections, except that the city council, by ordinance, shall fix the time for holding of such elections.

(6) DETERMINATION OF ELECTION TO OFFICE.—If only one candidate qualifies for an office, said candidate shall be deemed to be elected. If two or more candidates qualify for an office, the names of those candidates shall be placed on the ballot at the general election. If no candidate for an office receives a majority of the votes cast for said office, then the two candidates for the office receiving the highest vote in the general election shall run again in the runoff election, provided that:

(a) If more than two candidates for an office receive an equal and highest number of votes, the name of such candidates shall be placed on the runoff election ballot.

(b) In any contest in which there is a tie for second place, the name of the candidate placing first and the name of each candidate tying for second shall be placed upon the runoff election ballot. The candidate receiving the highest number of votes cast for the office in the runoff election shall be elected to such office. If the vote at the runoff election results in a tie, the outcome shall be determined by lot.

(7) CITY CANVASSING BOARD.—The city canvassing board shall be composed of those members of the city council who are not candidates for reelection and the city clerk, who shall act as chairperson. At the close of the polls of any city election, or as soon thereafter as practicable, the canvassing board shall meet at a time and place designated by the chairperson and shall proceed to publicly canvass the vote as shown by the returns then on file in the office of the city clerk, and then shall publicly canvass the absentee elector ballots. The canvassing board shall prepare and sign a certificate containing the total number of votes cast for each candidate or other measure voted upon. The certificate shall be placed on file with the city clerk.

(8) RECALL OF CITY COUNCIL MEMBERS.—Any member of the city council may be removed from office by the electors of the city following the procedures for recall established by general law.

(9) INITIATIVE AND REFERENDUM.—

(a) Power to initiate and reconsider ordinances.—

1. Initiative.—The electors of the city shall have the power to propose ordinances to the city council and, if the city council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes, or setting salaries of city officers or employees.

2. Referendum.—

a. The city council shall have the power, by resolution, to call for a referendum vote by the electors of the city at any time, provided that the purpose of such referendum is presented to the city at a public hearing at least 60 days prior to the adoption of said resolution. Any resolution call for a referendum vote of the electors of the city must be passed by an affirmative vote of not less than four members of the council.

b. The electors of the city shall have the power to require reconsideration by the city council of any adopted ordinance and, if the city council fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes, or setting salaries of city officers or employees.

(b) Commencement of proceedings.—Any 10 electors may commence initiative or referendum proceedings by filing with the city clerk an affidavit stating that they shall constitute the petitioner's committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the city clerk may, at the committee's request, issue the appropriate petition blanks to the petitioner's committee at the committee's expense.

(c) Petitions.—

1. Initiative and referendum petitions must be signed by electors of the city equal in number to at least 10 percent of the total number of electors registered to vote in the last regular city election.

2. All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and 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.

3. Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

4. Except as otherwise provided in sub-subparagraph (a)2.b., all initiative and referendum petitions must be filed within 60 days after the date on which proceedings with respect to such initiative or referendum are commenced, and all requirements of the process, including, but not limited to, the submission of the signatures required, must be completed no later than 90 days following the date of filing said initiative or referendum petition.

(d) Procedure for filing.—

1. Within 20 days after an initiative petition or a referendum petition is filed, the city clerk 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 petitioner's committee by registered mail. Grounds for insufficiency are only those specifics in subparagraph (c)3. that are not met. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioner's committee files a notice of intent to amend it with the designated official within 2 business days after receiving the copy of the certificate and files a supplementary petition upon additional papers within 10 days after receiving the copy of such certificate. Such supplementary petition shall comply with original petition requirements and, within 5 days after it is filed, the city clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner's committee by registered mail. If a petition or an amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioner's committee does not elect to amend or request the city council review under subparagraph 2. within the time required, the city clerk shall promptly present a certificate to the city council and such certificate shall then be a final determination as to the sufficiency of the petition.

2. The city council review.—If a petition has been certified insufficient and the petitioner's committee does not file notice of intent to amend it or if an amended petition has been certified insufficient, the committee may, within 2 business days after receiving the copy of such certificate, file a request that it be reviewed by the city council. The city council shall review the certificate at its next meeting following the city council's filing of such request and approve or disapprove it, and determination shall then be final as to the sufficiency of the petition.

(e) Action on petitions.—

1. Action by city council.—When an initiative or referendum petition has been determined sufficient, the city council shall promptly consider the proposed initiative ordinance, or reconsider the referendum ordinance by voting its repeal. The repeal of an ordinance relating to the levy of ad valorem taxes shall be by ordinance. If the city council fails to adopt a proposed initiative ordinance without any change in substance within 45 days or fails to repeal the referendum ordinance within 30 days or, in the case of a referendum authorized pursuant to sub-subparagraph (a)2.c., within 5 days after the date on which the petition is determined to be sufficient, it shall submit the proposed initiative or referendum ordinance

to the electors of the city. If the city council fails to act on a proposed initiative ordinance or a referendum ordinance within the time period specified, the city council shall be deemed to have failed to adopt the proposed initiative ordinance, or failed to repeal the referendum ordinance on the last day that the city council was authorized to act on such matter.

2. Submission to electors.—The vote of the city on a proposed initiative or referendum ordinance shall be held not less than 30 or more than 60 days from the date the city council acted or was deemed to have acted pursuant to subparagraph 1., that the petition was determined sufficient. If no regular election is to be held within the period described in this paragraph, the city council shall provide for a special election, except that the city council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed initiative or referendum ordinance shall be made available at the polls.

3. Withdrawal of petitions.—An initiative or referendum petition may be withdrawn at any time prior to the 15th day preceding the day scheduled for a vote of the city by filing with the city clerk a request for withdrawal signed by at least eight members of the petitioner's committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(f) Results of election.—

1. 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. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

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

Section 9. Transition schedule.—

(1) REFERENDUM.—The referendum election called for by this act shall be held on November 2, 1999, at which time the following question shall be placed upon the ballot: “SHALL CHAPTER 99-, LAWS OF FLORIDA, CREATING THE CITY OF MARATHON AND PROVIDING ITS CHARTER BE APPROVED? YES/NO.” In the event this question is answered affirmatively by a majority of voters voting in the referendum, the provisions of this charter shall take effect as provided in section 13.

(2) INITIAL ELECTION OF COUNCIL MEMBERS.—

(a) Dates.—Following the adoption of this charter in accordance with subsection (1), the Monroe County Commission shall call a special election for the election of the five city council members to be held on February 8, 2000. In the event no candidate for an office receives a majority of the votes cast for said office, then a runoff election shall be held on February 22, 2000.

(b) Qualifying period.—Between noon on December 20, 1999, and noon on January 11, 2000, any individual who wishes to run for one of the five initial seats on the council shall qualify as a candidate with the Monroe County Supervisor of Elections in accordance with the provisions of this charter and general law.

(c) Certification of election results.—For the initial election, the Monroe County Commission shall appoint a canvassing board which shall certify the results of the election.

(d) Induction into office.—Those candidates who are elected on February 8, 2000, and February 22, 2000, shall take office at the initial city council meeting, which shall be held at 7 p.m., on February 24, 2000, at the Marathon Public Library.

(e) Initial terms of office.—In order to provide for staggering terms of office, the initial term of office for those three council candidates receiving the highest number of votes in the initial election shall be 2 years, and for the remaining elected candidates, the initial term of office shall be 1 year.

(3) CREATION AND ESTABLISHMENT OF CITY.—For the purpose of compliance with s. 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the city is hereby created and established effective November 30, 1999. Notwithstanding anything to the contrary contained herein, the city, although created and established as of November 30, 1999, shall not be operational until February 24, 2000.

(4) FIRST-YEAR EXPENSES.—The city council, in order to provide moneys for the expenses and support of the city, shall have the power to borrow money necessary for the operation of city government until such time as a budget is adopted and revenues are raised in accordance with the provisions of this charter.

(5) TRANSITIONAL ORDINANCES AND RESOLUTIONS.—The city council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 days after the first council meeting may be passed as emergency ordinances. These transitional ordinances, passed as emergency ordinances, shall be effective for no longer than 90 days after adoption, and thereafter may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

(6) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS AND SOLID WASTE COLLECTION PLAN.—

(a) Until such time as the city adopts a comprehensive plan, the applicable provisions of the Comprehensive Plan of Monroe County, as the same exists on the day the city commences corporate existence, shall remain in effect as the city's transitional comprehensive plan. However, all planning functions, duties, and authority shall thereafter be vested in the City Council of Marathon which shall be deemed the local planning agency until and unless the council establishes a separate local planning agency. Prior to the adoption of a city comprehensive master plan, any amendment to any zoning as established in the current county land use plan shall only be by an

ordinance adopted by the affirmative vote of not less than four members of the council. Any increase in the residential density or intensity, as established in the current county land use plan which is adopted by the city shall only be by an ordinance adopted by the affirmative vote of not less than four members of the council.

(b) All powers and duties of the planning commission, zoning authority, any boards of adjustment, and the County Commission of Monroe County, as set forth in these transitional zoning and land use regulations, shall be vested in the City Council of Marathon until such time as the city council delegates all or a portion thereof to another entity.

(c) Subsequent to the commencement of the city's corporate existence, no amendment of the comprehensive plan or land development regulations enacted by the Monroe County Commission shall be deemed as an amendment of the city's transitional comprehensive plan or land development regulations or otherwise take effect within the city's corporate limits unless approved by the city council.

(d) In accordance with section 403.706(1), Florida Statutes, the Board of County Commissioners shall have the responsibility to transport municipal solid waste to a solid waste disposal facility of the county or operate a solid waste facility. The municipality must, through September 30, 2002, deliver the solid waste collected within the municipality to either a county solid waste transfer station or a county solid waste disposal facility, as determined by the board. For the remainder of the term of the county's solid waste haulout contract, the board and the municipality shall negotiate for the delivery of the solid waste collected within the municipality by interlocal agreement. The parties shall negotiate in good faith and with primary consideration given to the minimum waste generation guarantees set forth in the county's solid waste haulout contract. However, in no event may the board charge the municipality a tipping fee in excess of the tipping fee established annually and charged to other municipalities and persons delivering solid waste to the county transfer stations or county solid waste disposal facility.

(7) STATE SHARED REVENUES.—The City of Marathon shall be entitled to participate in all shared revenue programs of the State of Florida effective immediately on the date of incorporation. The provisions of s. 218.23(1), Florida Statutes, shall be waived for the purpose of eligibility to receive revenue sharing funds from the date of incorporation through the state Fiscal Year 2001-2002. Section 218.26(3), Florida Statutes, is waived through the state Fiscal Year 2001-2002, and the apportionment factors for the municipalities and counties shall be recalculated pursuant to s. 218.245, Florida Statutes. Initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the bureau be unable to provide an appropriate population estimate, the Monroe County Planning Division estimate shall be utilized.

(8) GAS TAX REVENUES.—Notwithstanding the requirements of s. 336.025, Florida Statutes, to the contrary, the City of Marathon shall be entitled to receive local option gas tax revenues beginning on July 1, 2000.

Section 10. Land description.—The corporate boundaries of the city shall be as follows: from the East end of the Seven Mile Bridge (approximately Mile Marker 47) to the West end of the Tom’s Harbor Bridge (approximately Mile Marker 60), including, but not limited to, the entire islands of Knight Key; Hog Key; Vaca Key; Stirrup Key; Boot Key; Crawl Key; East Sister’s Island; West Sister’s Island; Fat Deer Key; Long Point Key; Deer Key; Little Deer Key; Little Crawl Key; Grassy Key; the unincorporated areas of Monroe County commonly known as Marathon and Coco Plum; all land filled in between the islands, including all islands connected by U.S. 1, Overseas Highway and roadways connecting thereto; and all adjacent islands not connected by roadways within the boundaries of Monroe County between Mile Marker 47 and Mile Marker 60, specifically excluding all areas within the boundaries of the City of Key Colony Beach, all of the above being within the boundaries of Monroe County, Florida.

Section 11. General provisions.—

(1) CHARTER AMENDMENTS.—This charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rule Powers Act, chapter 166, Florida Statutes, as the same may be amended from time to time, or its successor, or as may otherwise be provided by general law. The form, content, and certification of any petition to amend shall be established by ordinance.

(2) STANDARDS OF CONDUCT.—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 city council shall, no later than 6 months from the effective date of incorporation, establish by ordinance a code of ethics for officials and employees of the city which may be supplemental to general law, but in no case may such an ordinance diminish the provisions of general law. The intent of this provision of the charter is to require more stringent standards than those provided under general law.

(3) INFRASTRUCTURE SURTAX REVENUES.—The City of Marathon shall be entitled to receive infrastructure surtax revenues beginning on July 1, 2000.

Section 12. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect within the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 13. This act shall take effect only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed City of Marathon, as described in section 10, voting in a referendum election to be called by the Monroe County Commission and to be held on November 2, 1999, in accordance with the provisions of law relating to elections currently in force, except this section shall take effect upon becoming a law.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.