

## Council Substitute for House Bill No. 1071

An act relating to Brevard County; creating the City of Port St. John Charter; providing a short title; providing legislative findings; providing for incorporation; providing a council-manager form of government and its powers and duties; providing for a city council and its membership, including mayor and vice mayor, qualifications and terms of office, powers and duties, compensation and expenses, and prescribed procedures relating to vacancies, including forfeiture of office, suspension, and recall; providing for meetings; providing for recordkeeping; providing certain restrictions; providing for charter officers and their appointment, removal, and compensation, filling of vacancies, qualifications, residency requirements, and powers and duties; establishing a fiscal year; providing for a budget, appropriations, amendments, and limitations; providing for elections and matters relating thereto; defining boundaries of the city; specifying general provisions relating to charter review and amendment, adjustment of districts, and standards of conduct; providing for severability; providing for a referendum, initial election of council members, transition services and compensation, first-year expenses, specified transitional matters, and state shared and gas tax revenues; 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, may be cited as the “City of Port St. John Charter,” hereinafter referred to as “the charter.”

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

(1) The area in Brevard County known as Port St. John includes a compact and contiguous urban community amenable to separate municipal government.

(2) It is in the best interests of the public health, safety, and welfare of the citizens of this community to form a separate municipality for the Port St. John area with all powers and authority necessary to provide efficient and adequate municipal services to its residents.

Section 3. Incorporation of municipality.—

(1) There is created, effective December 31, 2002, in Brevard County, Florida, a new municipality to be known as the City of Port St. John.

(2) The corporate boundaries of the City of Port St. John, hereinafter referred to as “the city,” shall be as described in subsection (1) of section 9.

(3) The City of Port St. John shall operate under a council-manager form of government. The general duties of the council, as described in section 5,

shall be to set policy; the general duties of the manager, as described in section 6, shall be to carry out those policies.

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 the laws 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 purposes 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 FOR OFFICE.—

(a) Composition.—

1. There shall be a seven-member city council consisting of a mayor and six council members.

2. Each member shall be elected at large to represent the city at large.

3. Each member shall at the time of qualification reside within the city limits. For the length of his or her term, each member shall maintain residency within the city limits.

(b) Qualifications for office.—

1. Each candidate for office shall be a qualified elector of the city.

2. Each individual seeking to qualify as a candidate for one of the six seats on the council:

a. Shall submit a petition supporting his or her candidacy to the city clerk containing the signatures of at least 1 percent of the electorate residing within the district, as identified in the most recent decennial census, from which he or she seeks to run or shall pay to the city clerk a qualifying fee of 10 percent of the salary of the office for which he or she seeks to run.

b. Shall reside within the boundaries of the city at the time of qualification.

3. Each individual seeking to qualify as a candidate for mayor:

a. Shall submit a petition supporting his or her candidacy to the city clerk containing the signatures of at least 1 percent of the electors residing within the city limits, as identified in the most recent decennial census, or shall pay to the city clerk a qualifying fee of 10 percent of the mayoral salary.

b. Shall reside within the city limits at the time of qualification. For the length of his or her term, the mayor shall maintain residency within the city

limits. In addition, mayoral candidates, and the elected mayor, shall reside at least 45 weeks of each year within the city limits.

4. For the initial election following the referendum approving the creation of the city, candidates for office shall qualify as provided in subsection (3) of section 12.

(2) TERMS OF OFFICE.—

(a) The term of office for each member shall be 4 years. However, in order to provide for staggering of terms, the initial term of office for seats one, three, and five shall be 4 years, and that for seats two, four, and six shall be 2 years. The initial term of office for the mayor shall be 4 years.

(b) No council member or mayor may serve more than two successive 4-year terms in the same seat.

(c) Each council member shall remain in office until his or her successor is elected and assumes the duties of the position at the first meeting of the new council, which shall be held in accordance with city ordinance.

(3) POWERS AND DUTIES OF COUNCIL.—Except as otherwise prescribed herein or as 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.

(4) POWERS AND DUTIES OF THE MAYOR.—

(a) Powers.—In addition to the regular powers invested in any other council member, the mayor shall be recognized by the Governor for purposes of military law; shall have the power to declare an emergency situation; shall have the power for service of process and execution of contracts, deeds, and other documents; and shall have the power to represent the city in all agreements with other governmental entities or certifications to other governmental entities that the council has approved.

(b) Duties.—In addition to his or her regular duties, the mayor shall preside at meetings of the council and be recognized as the head of city government for all ceremonial occasions. 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.

(5) THE VICE MAYOR; ELECTION AND DUTIES.—

(a) Election.—There shall be a vice mayor elected annually by the council from among the council members. Such election shall take place at the first meeting after the general election or at the organizational meeting during years when there is no election.

(b) Duties.—The vice mayor shall have the same legislative powers and duties as any other council member, except that he or she shall serve as acting mayor during the absence or disability of the mayor and, during such

period, shall have the same duties as provided for in subsection (4). In the absence of the mayor and vice mayor, the remaining council members shall select a council member to serve as acting mayor.

(6) COMPENSATION AND EXPENSES.—

(a) Compensation.—The council members and mayor shall receive compensation as established by ordinance. Such compensation shall not take effect until the date of commencement of the terms of council members elected at the next regularly scheduled election that follows the adoption of said ordinance by at least 6 months.

(b) Expenses.—The council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

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

(a) Vacancies.—A vacancy in the office of mayor or of a council seat 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 incompetence, or forfeiture of office as described in paragraph (b).

(b) Forfeiture of office.—The mayor or any other council member shall forfeit his or her office upon determination by the council, acting as a body, 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 as 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 of guilt has been 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 being excused by the council.

(c) Suspension from office.—The mayor or any other council member shall be suspended from office by the council, acting as a body, upon return of an indictment or issuance of an information charging the council member or mayor with any crime which is punishable as a felony or with any crime arising out of his or her official conduct or duties which is punishable as a misdemeanor.

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

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

(d) Recall.—The electors of the city following the procedures for recall established by general law or ordinance may remove the mayor or any member of the city council from office.

(e) Filling of vacancies.—

1. If, for any reason other than recall, a vacancy occurs in the office of mayor, the vice mayor shall assume the position of mayor and, within 30 days following the occurrence of such vacancy, a special election shall be called as outlined in paragraph (5)(b) of section 8. The special election for mayor shall be for the remainder of the unfilled term.

2. If, for any reason other than recall, a vacancy occurs in the office of any council seat within the first 2 years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by a majority vote of the remaining council members. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the remaining 2 years of the original term, thus continuing the original staggering of seats.

3. If, for any reason other than recall, a vacancy occurs in the office of any council seat within the last 2 years of a term, the office shall be filled by appointment within 30 days following the occurrence of such vacancy by majority vote of the remaining council members. Such appointments shall last until the next regularly scheduled election, at which time the seat shall be declared open and an election held for the regular 4-year term.

4. If a vacancy occurs as a result of a recall petition, such vacancy shall be filled by special election as outlined in paragraph (5)(b) of section 8.

5. Any person appointed to fill a vacant seat on the council is required to meet all the qualifications for office except the petition requirement.

(8) CITY COUNCIL MEETINGS; ORGANIZATIONAL MEETING, QUORUM, SPECIAL MEETINGS.—The council shall meet regularly at least once a month, at such times and places as the council may prescribe by ordinance. Such meetings shall be public meetings and shall be subject to notice and other requirements of law applicable to public meetings.

(a) Organizational meeting.—The first meeting following a general city election at which elected or reelected council members are inducted into office shall be held in accordance with city ordinance.

(b) Quorum.—A majority of the council, including the mayor, 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 and mayor in attendance, unless otherwise provided by law or ordinance or as stated in this charter. All actions of the city council shall be by ordinance, resolution, or motion.

(c) Special meetings.—Special meetings may be held at the call of the mayor or, in the absence of the mayor, at the call of the vice mayor. Special meetings may also be called upon the request of a majority of the council members. The city clerk shall provide not less than 24 hours' prior notice of the meeting to the public, unless a declared emergency situation exists.

(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 made available to the public on a continuing basis. All ordinances or resolutions of the council shall be signed by the mayor or, in the mayor's absence, by the vice mayor or, in the absence of both, by the acting mayor, and attested to by the city clerk.

(10) LIMIT OF EMPLOYMENT OF COUNCIL MEMBERS.—Neither council members nor the mayor shall be in the employment of the city while in office, nor shall any former council member or former mayor be employed by the city until after the expiration of 1 year from the time of leaving office.

(11) NONINTERFERENCE BY CITY COUNCIL.—Except for the purpose 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 city employee who is under the direct or indirect supervision of the city manager or city attorney.

Section 6. Charter officers.—The designated charter officers shall be the city manager and the city attorney.

(1) DESIGNATED CHARTER OFFICERS; APPOINTMENT, REMOVAL, COMPENSATION, FILLING OF VACANCIES, CANDIDATE FOR CITY OFFICE.—

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

(b) Removal.—The charter officers shall be removed from office only by a majority vote of the full council. If the vote is less than unanimous, the charter officer may, within 7 days after the dismissal motion by the council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

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

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

(e) Candidate for city office.—No charter officer shall be a candidate for any elected office while holding his or her charter office position.

(2) CITY MANAGER; QUALIFICATIONS, RESIDENCY, POWERS AND DUTIES.—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) Residency.—Although the city manager need not be a resident of the city at the time of appointment, within 6 months after such appointment, he or she shall establish and maintain residency within the corporate limits of the city. Upon request of the city manager, this 6-month period may be extended by the city council for an additional 6-month period.

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

1. Attend all meetings of the city council.
2. Draw and sign vouchers upon depositories and keep or cause to be kept a true and accurate account of same. Such vouchers shall be countersigned by the mayor or by the vice mayor in the event the office of mayor is vacant. If both the mayor and vice mayor offices are vacant, the acting mayor shall countersign such vouchers.
3. Be responsible for signature and issuance of all licenses issued by the city, issuance of receipts for all moneys paid to the city, and deposit of said moneys in the proper depositories on the first banking day after receipt.
4. Provide administrative services as required by the mayor and the council.
5. Appoint a city clerk to serve at his or her pleasure.
6. Appoint and suspend or remove any employee of the city. 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 within the guidelines of stated personnel policies and procedures.
7. Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.
8. See that all laws, provisions of this charter, and acts of the council are faithfully executed.

9. Prepare and submit to the council annually a balanced budget, budget message, and capital program.

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

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

12. Sign contracts on behalf of the city to the extent authorized by the council.

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

(3) CITY ATTORNEY; QUALIFICATIONS, RESIDENCY, POWERS AND DUTIES.—The city attorney shall be the chief legal officer of the city. The city attorney may either be retained in-house or be retained part time under contract.

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

(b) Residency.—There shall be no residency requirement for the city attorney, unless otherwise adopted by ordinance.

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

1. Shall serve as chief legal advisor to the city commission, the city manager, and all city departments, offices, city advisory boards, and agencies.

2. If in-house, shall appoint, suspend, or remove such assistant attorneys as may be required. If city attorney services are contracted, the city manager shall appoint, suspend, or remove any in-house assistant attorneys as may be required. The remainder of the staff of the office of the city attorney shall be employees of the city, appointed, suspended, or removed under the regular personnel policies and procedures of the city.

3. Or his or her designee shall attend all 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 7. Budget and appropriations.—

(1) FISCAL YEAR.—The city fiscal year 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 or before the 30th day of September of each year. 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; SUPPLEMENTAL APPROPRIATIONS; REDUCTION OF APPROPRIATIONS; TRANSFER OF APPROPRIATIONS; LIMITATIONS; EFFECTIVE DATE.—

(a) Supplemental appropriations.—If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the council may by resolution 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, he or she shall so report to the council without delay, indicating the estimated amount of the deficit, any remedial action to be 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 any deficit and, for that purpose, the council may by resolution reduce one or more appropriations accordingly.

(c) Transfer of appropriations.—At any time during the fiscal year, the city manager may transfer all or part of any unencumbered appropriation balance within a department, office, or agency of the city to other programs within the same department, office, or agency. Further, upon written request of the city manager, the council may 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, no appropriation may be reduced below any amount required by law to be appropriated, and no appropriation may be reduced 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.

#### 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 city elective office shall be conducted on a nonpartisan basis without any designation of political party affiliation.

(3) QUALIFYING FOR OFFICE.—Any person who wishes to become a candidate for a city elective office shall qualify with the city clerk no sooner than 45 calendar days nor later than 35 calendar days prior to the second

Tuesday in September of each odd-numbered year. In addition, candidates shall qualify as provided in paragraph (1)(b) of section 5.

(4) SCHEDULE FOR REGULAR ELECTIONS AND PRIMARIES.—The regular city election shall be the first Tuesday after the first Monday in November of each odd-numbered year. Such city elections shall be general city elections. If there are more than two candidates who qualify for any office, a primary city election shall be held on the first Tuesday after the first Monday in September.

(a) An election to fill a vacant council seat, as outlined in paragraph (7)(e) of section 5, when there is more than half of the term remaining shall be held during the next regularly scheduled election. Such election shall be for the remaining 2 years of the original term.

(b) An election to fill a vacant council seat, as outlined in paragraph (7)(e) of section 5, when there is less than half of the term remaining shall be filled at the next regularly scheduled election. Such election shall be for a 4-year term.

(5) SCHEDULE FOR SPECIAL ELECTIONS.—

(a) A special election for a vacant position of mayor, as outlined in paragraph (7)(e) of section 5, shall be called within 30 days, and the city council shall by resolution fix the time for holding of such election. Such special election for mayor shall be for the remainder of the vacant term.

(b) All other special municipal elections shall be held in the same manner as regular elections and the city council shall by resolution fix the time for holding of such elections.

(6) DETERMINATION OF ELECTION TO OFFICE.—

(a) If only one candidate qualifies for an office, that candidate shall be deemed to be elected and shall not be placed on either the general or the primary ballot.

(b) If two or more candidates qualify for an office, the names of those candidates shall be placed on the ballot at the primary election. If any candidate for such office receives a majority of the votes cast in the primary election for the office, he or she shall be deemed to be elected.

(c) If no single candidate for an office receives a majority of the votes cast in the city primary election for that office, the two candidates for the office receiving the highest vote in the primary city election shall run again in the regular city election. Further:

1. In any primary election in which there is a tie for first place, the name of each such candidate shall be placed on the city's general election ballot.

2. In any primary election in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office, the name of the candidate placing first and the name of each candidate tying for second shall be placed on the city's general election ballot.

(d) The candidate receiving the highest number of votes cast for the office in the city's general election shall be elected to such office. If the vote at the general city election results in a tie, the outcome shall be determined by lot as follows:

1. At the first regularly scheduled council meeting after the election, the Supervisor of Elections of Brevard County shall toss a coin. Applying the alphabetic order rule, each candidate shall call the coin.

2. The candidate whose call first matches the coin toss shall be declared the winner.

(7) CITY CANVASSING BOARD.—For purposes of certifying absentee ballots and election results, the city clerk and a representative from the city designated by the council shall be known as the canvassing board. At the close of the polls of any city election, the canvassing board shall ensure that the absentee ballots are delivered to the Brevard County Supervisor of Elections and shall meet at the county election headquarters and proceed to certify the ballots and open them in the presence of a representative of the supervisor of elections' office. In addition, after final election results are certified by the Brevard County Supervisor of Elections, the canvassing board shall immediately report the results back to a meeting of the city council held for the purpose of final certification and filing with the city clerk as required by law.

#### Section 9. Land description.—

(1) CITY BOUNDARIES.—The initial corporate boundaries shall be as hereinafter described. At any time after incorporation, boundaries may be changed in accordance with general laws regarding annexation without amendments to the charter.

##### Description:

A parcel of land lying in Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30, Township 23, Range 35 east; and Sections 18, 19, and 30, Township 23, Range 36 east; and a portion of Sections 13, 24, and 25, Township 23, Range 34 east, Brevard County, Florida, and being more fully described as follows:

Begin at the northeast corner of Section 14, Township 23, Range 35 east; thence westerly along the north line of said Section 14, a distance of 5,280 feet, more or less, to the northwest corner of Section 14, Township 23, Range 35 east; thence westerly along the north line of said Section 14, a distance of 5,280 feet, more or less, to the northwest corner of Section 15, Township 23, Range 35 east; thence westerly, along the north line of said Section 15, a distance of 5,280 feet, more or less, to the northwest corner of Section 16, Township 23, Range 35 east; thence westerly along the north line of said Section 16, a distance of 5,280 feet, more or less, to the northwest corner of Section 17, Township 23, Range 35 east; thence westerly along the north line of said Section 17, a distance of 5,280 feet, more or less, to the northwest corner of Section 18, Township 23, Range 35 east; thence westerly along the north line of said Section 18, a distance of 1,848 feet, more or less, to the east shore line of

St. John's River; thence southerly, along the east shore line of the St. John's River, a distance of 16,896 feet, more or less, to the northwest corner of Section 24, Township 23, Range 34 east; thence southerly, along the west line of said Section 24, a distance of 3,168 feet, more or less, to the northwest corner of Section 25, Township 23, Range 34 east; thence southerly along the west line of said Section 25 a distance of 5,280 feet, more or less, to the southwest corner of Section 25, Township 23, Range 34 east; thence easterly along the south line of said Section 25, a distance of 5,280 feet, more or less, to the southeast corner of Section 25, Township 23, Range 34 east; thence southerly along the east line of said Section 25, a distance of 528 feet, more or less, to the southwest corner of Section 30, Township 23, Range 35 east; thence easterly along the south line of said Section 30, a distance of 5,280 feet, more or less, to the southeast corner of Section 30, Township 23, Range 35 east; thence easterly along the south line of said Section 30, a distance of 5,280 feet, more or less, to the southeast corner of Section 29, Township 23, Range 35 east; thence easterly along the south line of said Section 29, a distance of 5,280 feet, more or less, to the southeast corner of Section 28, Township 23, Range 35 east; thence easterly along the south line of said Section 28, a distance of 5,280 feet, more or less, to the southeast corner of Section 27, Township 23, Range 35 east; thence easterly along the south line of said Section 27, a distance of 5,280 feet, more or less, to the southeast corner of Section 26, Township 23, Range 35 east; thence easterly along the south line of said Section 26, a distance of 5,280 feet, more or less, to the southeast corner of Section 25, Township 23, Range 35 east; thence easterly along the south line of said Section 25, a distance of 3,300 feet, more or less, to the west shore line of the Indian River; thence northwesterly along the west shore line of Indian River to the northeast corner of Section 13, Township 23, Range 35 east; thence westerly along the north line of said Section 13, a distance of 4,224 feet, more or less, to the Point-of-Beginning, less and except the following; Tracts 145-160 inclusive, number 2 of series of two maps, Cocoa-Indian River Properties as recorded in Plat Book 5, Page 7, Public Records of Brevard County, Florida.

Section 10. General provisions.—

(1) CHARTER AMENDMENT.—This charter may be amended in accordance with the provisions of the Municipal Home Rule Powers Act, chapter 166, Florida Statutes, as the same may be amended from time to time, 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) CHARTER REVIEW; SCHEDULE, CHARTER REVIEW COMMITTEE.—

(a) Schedule.—The charter shall be reviewed no later than 10 years after the creation of the City of Port St. John on December 31, 2002, and thereafter it may be reviewed every 10 years.

(b) Charter review committee.—A five-member charter review committee shall be appointed. Each council member shall appoint one member at large and the mayor shall appoint one member at large. The Port St. John

City Council shall fund this committee. The charter review committee shall be appointed at least 1 year before the next scheduled general election and complete its work and present any recommendations for change no later than 60 days before the general election. The Port St. John City Council shall hold a minimum of two public hearings on the proposed changes to the charter prior to placing the proposed changes on the scheduled general election ballot.

(3) INITIATIVE AND REFERENDUM.—A minimum of at least 10 percent of the qualified electorate of the city shall be required in order to constitute sufficient participation among the electorate to have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance or to propose an amendment to this charter. If the council fails to adopt such ordinance or amendment so proposed or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance or amendment or the repeal of the adopted ordinance on the ballot at the next general election. Ordinances establishing taxes or fees authorized by general law or the State Constitution shall be exempt from any initiative and referendum.

(4) 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 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 such an ordinance diminish the provisions of general law.

Section 11. Severability.—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 without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 12. Transition schedule.—

(1) REFERENDUM.—The referendum election called for by this act shall be held on Tuesday, November 5, 2002, at which time the following question shall be placed upon the ballot:

SHALL CHAPTER 2002-....., LAWS OF FLORIDA, CREATING THE CITY OF PORT ST. JOHN AND PROVIDING ITS CHARTER BE APPROVED?

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 herein.

(2) CREATION AND ESTABLISHMENT OF CITY.—For the purpose of compliance with Florida Statutes relating to assessment and collection of ad valorem taxes, and for the purpose of subsection (2) of section 10, the city is hereby created and established effective December 31, 2002.

(3) INITIAL ELECTION OF COUNCIL MEMBERS: DATES, QUALIFYING PERIOD, CERTIFICATION OF ELECTION RESULTS, INDUCTION INTO OFFICE.—

(a) Dates.—Following the adoption of this charter in accordance with subsection (1), the Brevard County Commission shall call a special election for the election of the six city council members and the mayor to be held on February 4, 2003. Any necessary primary election shall be held on January 15, 2003.

(b) Qualifying period.—Between 8:30 a.m. on December 2, 2002, and 2 p.m. on December 6, 2002, any individual who wishes to run for one of the six initial seats on the council or for the office of mayor shall qualify as a candidate with the Brevard County Supervisor of Elections in accordance with the provisions of general law and paragraph (1)(b) of section 5 of this charter, except that for this initial election, the following provisions supersede paragraph (1)(b) of section 5:

1. For any of the six council seats, the number of qualifying signatures required on a qualifying petition shall be 1 percent of the qualified electors, or, if the candidate wishes to qualify by fee, that fee shall be \$120.

2. For the seat of mayor, the number of qualifying signatures required on a qualifying petition shall be 300, or, if the candidate wishes to qualify by fee, that fee shall be \$180.

(c) Certification of election results.—For the initial election, the Brevard 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 4, 2003, or at the primary election on January 15, 2003, following the same manner as outlined in subsection (6) of section 8, shall take office at the initial city council meeting, which shall be held at 7 p.m. on February 5, 2003, at the Port St. John Community Center, 6650 Corto Road, Port St. John, Florida.

(4) TRANSITION SERVICES AND COMPENSATION.—

(a) It is the intent of this section that the county shall provide and be compensated for the provision of services to the City of Port St. John as budgeted for in the fiscal year 2002-2003 Brevard County Budget for the remainder of the budget year. The level of services to be provided will be consistent with the level upon which the fiscal year 2002-2003 expense budget was predicated and in accordance with adopted revenues.

(b) It is also the intent of this section that, if the referendum of November 2002 passes, the county shall make no changes to the fiscal year 2002-2003 draft budget which would affect the future City of Port St. John, either positively or negatively, unless a special budget hearing is held for the citizens of the future City of Port St. John to discuss such changes.

(c) In addition, services which the county shall provide under the terms of this agreement shall include all services now provided to the Port St. John

area as adopted by the Brevard County Commission prior to the City of Port St. John becoming operational on December 31, 2002. Compensation to Brevard County for services provided shall include all revenues which, although accruing to the city, would have accrued to the county as budgeted for provision of services prior to the incorporation of the city.

(d) It is the responsibility of the city to adopt appropriate ordinances, resolutions, or agreements as required to ensure the continued collection of budgeted revenues with which to fund services beginning February 28, 2003.

(e) Any revenues adopted or received by the City of Port St. John upon which delivery of services was not predicated within the Brevard County Commission's fiscal year 2002-2003 adopted budget shall accrue to the City of Port St. John.

(5) FIRST-YEAR EXPENSES.—The city council, in order to provide additional moneys needed 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.

(6) 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 shall be passed as emergency ordinances. These transitional 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.

(7) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATION.—

(a) Until such time as the city shall adopt a comprehensive plan, the applicable provisions of the Comprehensive Plan for Brevard County, Florida, as the same exists on the day the city commences corporate existence, shall remain in effect as the city's transitional comprehensive plan. All planning functions, duties, and authority shall thereafter be vested in the City Council of Port St. John, which shall be deemed the local planning agency until the council establishes a separate local planning agency.

(b) All powers and duties of the Brevard County Planning and Land Development Regulations Council, any boards of adjustment and appeals created pursuant to statutory trade codes, the Port St. John Special District Governing Board, and the Brevard County Commission, as set forth in these transitional zoning and land use regulations, shall be vested in the City Council of Port St. John until such time as the city council delegates all or a portion thereof to another entity. General law prohibits the adoption of zoning ordinances as emergency ordinances.

(c) Subsequent to the commencement of the city's corporate existence, no amendment of the comprehensive plan or land development regulations enacted by the Brevard County Commission shall be deemed an amendment

to the city's transitional comprehensive plan or land development regulations or shall take effect within the city's corporate limits unless approved by the council.

(8) SHARED REVENUES.—The City of Port St. John shall be entitled to participate in all shared revenue programs of the state effective on the first day of the month occurring after the first meeting of the council. The provisions of section 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 2004-2005. The provisions of section 218.26(3), Florida Statutes, shall be waived for fiscal year 2002-2003 and apportionment factors for the municipalities and counties shall be recalculated pursuant to section 218.245, Florida Statutes, upon the date of incorporation. Initial population and future population estimates for calculating eligibility for shared revenues shall be determined by the University of Central Florida Bureau of Economic and Business Research. Should the bureau be unable to provide an appropriate population estimate, the Brevard County Planning Department shall provide an appropriate estimate.

(9) LOCAL OPTION GAS TAX REVENUES.—Notwithstanding the requirements of section 336.025, Florida Statutes, to the contrary, the City of Port St. John shall be entitled to receive local option gas tax revenues beginning January 1, 2003, until the beginning of the city's first full fiscal year on October 1, 2003. Distributions to the city prior to September 30, 2003, shall be in accord with section 336.025(4)(b)1., Florida Statutes, or in accord with an interlocal agreement executed prior to July 31, 2003, for the period beginning with the date of execution of the interlocal agreement and ending on September 30, 2003.

Section 13. This act shall take effect as provided herein only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed City of Port St. John, as described in subsection (1) of section 9, voting in a referendum election to be called by the Brevard County Commission and to be held in accordance with subsection (1) of section 12 and the provisions of general law relating to elections currently in force, except this section shall take effect upon becoming a law.

Approved by the Governor April 24, 2002.

Filed in Office Secretary of State April 24, 2002.