

# CITY OF SEBASTIAN CHARTER

## PART I - CHARTER <sup>[1]</sup>

<sup>(1)</sup> **Editor's note**— Printed herein is the Home Rule Charter of the City of Sebastian adopted by Ordinance Number O-78-9 on October 9, 1978, and approved at referendum on December 11, 1978. The Charter became effective January 1, 1979. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section.

ARTICLE I. - CREATION AND POWERS

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<sup>(1)</sup> **State Law reference**— Municipal Home Rule Powers Act, F.S. ch. 166; Charter amendments, F.S. § 166.031. (Back)

## ARTICLE I. - CREATION AND POWERS <sup>[2]</sup>

<sup>(2)</sup> **State Law reference**— Home rule powers generally, F.S. § 166.021.

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### **Sec. 1.01. - Creation and powers.**

The City of Sebastian, Florida, as now established, shall continue to be a municipal body politic and corporate in perpetuity under the name "City of Sebastian" and, under that name, shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.

### **Sec. 1.02. - Extraterritorial powers.**

In addition to the powers enumerated herein, the city shall be vested with all extraterritorial powers heretofore granted by the prior Charter of the City of Sebastian, Florida, as follows:

(1) *Acquisition of property.* To acquire by purchase, gift, devise, condemnation, lease or otherwise, real or personal property or any estate therein, or riparian right or easements therein, within or without the city, to be used for any municipal purpose, including cemeteries or places for burial of the dead; streets and highways, public parking lots or spaces; bridge and tunnels sites; the construction of a telephone system; plants, works and wells and other equipment necessary for supplying said city with water, ice, gas for

illuminating and heating purposes, and electric power for illuminating, heating and other purposes; the location of waterworks and sites for public utility works; the establishment of houses of detention and correction; hospitals for the cure or detention of the sick; jails; market houses, public parks, playgrounds, airports, docks, sea walls, yacht harbors, wharves, warehouses, promenades; plants for cremating, neutralizing or otherwise destroying sewerage, garbage and refuse; for extension of sewer and drainage pipes and watermains; and for any public or municipal purpose; and to improve, sell, lease, pledge or otherwise dispose of same or any part thereof for the benefit of the city, to the same extent that natural persons might do, in the manner provided in this Charter. Any land purchase in excess of ten percent of the general fund of the current budget year shall require two appraisals. If the purchase price is in excess of the average of two appraisals, approval of the purchase would require a supermajority vote of four members of Council.

(2) *Docks, wharves, sea walls.* To establish, construct, maintain, operate and control public landings, piers, wharves and docks within and without the city, and to acquire lands, riparian rights or other rights and easements necessary for such purposes; to control and regulate the operation of boats and the speed thereof; to lay and collect reasonable duties, charges or fees on vessels or watercraft coming into or using such landings, wharves, and docks; to regulate the manner of using any and all wharves and docks within and without the city and the rates of wharfage or charges to be paid by vessels or other watercraft using the same.

(3) *Use of public lands and waters.* To regulate and control the use and occupancy of the waters, waterways, water bottoms, wharves, causeways, bridges, beaches, streets, thoroughfares, alleys, parks, public lots, and other public places in the city and municipally owned or leased property within or without the city limits; and to impose and enforce adequate penalties for violation of such rules and regulations.

(4) *Public utilities.* To furnish any and all local public services, including electricity, gas, water, lights, or transportation, and to charge and collect necessary fees or charges therefor; to purchase, hire, construct, own, extend, maintain, operate or lease any public utilities, electric light system, telephone and telegraph system, waterworks and plants, ice plants, and works, gas plants and distribution systems, bus or transit systems, radio broadcasting stations, television stations, cablevision rebroadcasting systems, telephone systems, or other public utility; to establish, impose and enforce rates and charges for supplying such services or conveniences by the city to any person, persons, firm or corporation; to furnish any and all local public services to persons, firms, industries, or municipal corporations residing or located outside of the limits of said city. To acquire in any lawful manner in the State of Florida such water, lands and lands under water as the city council may deem necessary for the purpose of providing an adequate water supply for said city and the piping and conducting of the same, to make reasonable rules and regulations for promoting the purity of its said water supply and protecting the same from pollution and for this purpose to exercise full police powers over all lands comprised within the limits of the water shed tributary to any such supply wherever such lands may be located in the State of Florida.

(5) *Abatement of nuisances.* To compel the abatement and removal of all nuisances within the city or upon the property owned by the city beyond its corporate limits, at the expense of the person or persons causing the same, or of the owner or occupant of the grounds or premises whereon the same may be.

(6) *Stock.* To provide for inspecting and regulating the sanitary condition of all butcher pens, meat markets, or other places within and without the city limits, where the products of same are sold within the city limits, and to provide penalties for the violation of such regulations.

(7) *Airports.* To purchase, acquire, take hold, establish, construct, equip, maintain and operate municipal airports, landing fields, hangars, aviation terminals and administration buildings, runways depots, warehouses, garages, repair shops, oil and fuel tanks or stations, or other necessary appurtenances for the use of airplanes and other aircraft, and to acquire or lease any and all real property within the corporate limits, or within ten (10) miles of the boundaries thereof for such purpose; to set apart and use for such purpose any real property owned or leased by the city, whether or not originally acquired by condemnation, purchase or lease for another purpose; to adopt and enforce reasonable rules and regulations governing the use of such municipal airports; to employ airport directors, airport managers, employees or agents in connection with such operation; to impose fees or charges in connection with the use of such airport or airport facilities; to sell gasoline or other supplies necessary in connection with the operation of such airports; to provide lounges, eating places, refreshment parlors and other facilities in connection with such municipal airports; to let or lease to private persons or corporations portions of said airports for building sites, hangar space, concessions or other uses for a term not to exceed thirty (30) years; to prescribe and promulgate reasonable rules and regulations for the operation of such airports, and to exercise supervision and control of such operation; to accept and receive grants from the state and federal governments and any body politic for the construction, maintenance, operation and management of such airport facilities.

(8) *Contracts with other governmental agencies.* To enter into contracts with the State of Florida or any of its subdivisions or agencies, and with the United States of America or any department or any agency thereof, in order to purchase, lease or acquire property, real and personal; within or without the limits of the territorial boundaries of the city, for any municipal purpose, and to sell, alienate, convey, lease or otherwise dispose of same for the benefit and advantage of said city.

(9) *To convey to United States or State of Florida.* To acquire real estate or any interest therein, located within or without the territorial limits of said city, by purchase, gift, devise, condemnation or otherwise, for the purpose of giving, granting or conveying the same to the United States of America or the State of Florida, or any lawful agency or subdivision thereof, whenever the city council of said city shall deem it advisable, beneficial and to the best interest of said city so to do, or in order to induce the construction of public institutions and public works of any and all kinds.

(10) *Golf course.* To acquire, construct, own and operate a golf course or golf courses and all such buildings and improvements as said city may deem necessary or desirable for use in connection therewith, within or outside of the limits of said city; to use any lands now owned by said city for the purpose of a golf course or golf courses, and to acquire by purchase, lease, condemnation or otherwise for such purposes any lands within or outside the limits of said city as it may deem necessary or desirable, to charge reasonable admissions, rentals or fees for the use or enjoyment of such golf course or golf courses by the users thereof, and prescribe reasonable rules and regulations for the use and operation thereof.

(11) *Eminent domain*. To exercise the right and power of eminent domain, that is, the right to appropriate property within or without the territorial limits of said city for the following uses or purposes: For streets, lanes, alleys and ways, for public parks, squares and grounds, for drainage and for raising or filling in land in order to promote sanitation and healthfulness, for reclaiming and filling when lands are low or wet or overflowed, altogether or at times and entirely or partly, for the abatement of any nuisance, for the use of water pipes and for sewage and drainage purposes, for laying wires and conduits under the ground, for city buildings, waterworks, pounds, electric power plants, bridges, sea walls, bulkheads, causeways, docks, golf courses, airports and any and all other powers granted to said city by this Charter and for any other municipal purpose and for any other purpose granted by law, all of which shall be coextensive with the powers of the City of Sebastian exercising the right of eminent domain and the absolute fee simple title to all property so taken and acquired shall vest in said city unless the city seeks to condemn a particular right or estate in such property. That the procedure for the exercise of eminent domain or the condemnation of any lands or property under this subsection shall be the same as is provided by the general laws of the State of Florida with respect to eminent domain. The city shall not use the power of eminent domain for a project having the purpose of transferring rights in the properties acquired to a private party in pursuit of economic development.

(Res. No. R-88-16, § 2, 1-13-88; election of 3-14-89; Ord. No. O-93-21, §§ 1—3, 1-12-94, election of 3-8-94; Ord. No. O-99-18, § 1, 11-3-99, election of 3-14-00; Ord. No. O-05-19, § 1, 10-26-05, election of 3-14-06; Ord. No. O-06-09, § 1, 10-11-06, election of 3-13-07; Ord. No. O-11-07, § 2, 7-13-11, election of 11-8-11)

**State law reference**— Municipal home rule powers, F.S. ch. 166.

### **Sec. 1.03. - Intergovernmental relations.**

The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any city, county, state, the United States or any agency or governmental unit thereof.

**State law reference**— Intergovernmental programs, F.S. ch. 163.

### **Sec. 1.04. - Boundaries.**

The corporate limits of the city shall be as presently established or as hereafter changed pursuant to state law.

**State law reference**— Municipal annexation or construction, F.S. ch. 171.

### **Sec. 1.05. - Existing businesses may continue after annexation.**

Any real property upon which a lawful business is being conducted at the time the same is taken into the corporate territory of the city, during the continuance of the same business it shall be granted the same privileges, immunities and exemptions as though any such business had been conducted within the city for the time of operation prior to annexation to the city at such location.

## ARTICLE II. - CITY COUNCIL

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### **Sec. 2.01. - Composition.**

There shall be a city council consisting of five (5) council members elected by the qualified voters of the city at large.

(Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-03, § 1, 1-27-93)

### **Sec. 2.02. - Eligibility.**

No person shall be eligible to hold the office of council member unless he or she is a qualified elector in the city and actually continually resided in the city for a period of one (1) year immediately preceding the final date for qualification as a candidate for said office.

(Ord. No. O-84-1, § 1, 2-1-84; Ord. No. O-93-03, § 2, 1-27-93)

### **Sec. 2.03. - Election.**

(a) [T]here shall be held a general election of two (2) council members on the first Tuesday following the first Monday in November of each even-numbered year and of three (3) council members in each odd-numbered year.

(b) The city elections shall have at large voting.

(Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-03, § 3, 1-27-93; Ord. No. O-06-11, § 1, 10-11-06)

### **Sec. 2.04. - Term commencement.**

*Swearing in.* The terms of newly elected council members shall commence when they are sworn in immediately prior to the first regularly scheduled city council meeting held following certification of the election results.

(Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-03, § 4, 1-27-93; Ord. No. O-11-13, § 2, 7-13-11, election of 11-8-11)

**Editor's note**— Ord. No. O-11-13, § 2, adopted July 13, 2011 and approved at an election on Nov. 8, 2011, amended § 2.04 title to read as herein set out. Former § 2.04 pertained to terms.

### **Sec. 2.05. - Compensation.**

The mayor, vice-mayor and each of the other council members shall be paid the following amounts on a monthly basis:

- (1) *Mayor*: Four hundred fifty dollars (\$450);
- (2) *Vice-mayor*: Three hundred dollars (\$300); and
- (3) *Council members*: Three hundred dollars (\$300).

(Res. No. R-82-22, 9-8-82; Res. No. R-87-04, § VI, 2-4-87; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-02, § 1, 1-27-93; Ord. No. O-99-22, § 1, 11-3-99, election of 3-14-00)

### **Sec. 2.06. - Mayor; vice-mayor.**

(a) *Mayor—Selection and term.* [A]fter the seating of any newly elected council members at the city council meeting held pursuant to Section 2.04 the new city council shall, as the first order of business, elect a mayor from among its members. The incumbent mayor or in his or her absence, the vice-mayor or in his or her absence, the senior member of city council, shall ask for nominations for mayor. After all nominations have been made, the nominations shall be closed. The city clerk shall then call the roll of the council members and each council member shall cast an affirmative vote for the council member of their choice. The council member that receives a majority vote shall be elected mayor. In the event no council member receives a majority of the votes cast on the first ballot, balloting with sequential roll calls shall continue until a council member receives a majority vote. Council members shall not nominate themselves. Only elected council members shall be eligible for the office of mayor.

- (1) If there is no mayor seated on the new or existing city council, a temporary city council chairperson may be elected from the incumbent members of the city council for the purpose of electing a mayor as set forth above.
- (2) In the event there is only one nomination and second for mayor, the nominee shall be seated as mayor.

(b) *Mayor—Duties, general.* The mayor shall preside at each meeting of the city council, shall have a vote upon matters before the city council, but shall not possess a veto power. The mayor shall have the power to preserve the peace and order, be recognized as the head of the city government for all ceremonial purposes, and shall be recognized by the governor as the head of the city government for purposes of military law. The mayor shall sign all ordinances, resolutions and proclamations of the city council or other documents as required by law on behalf of the city as directed and authorized by the city council, which shall also be attested by the city clerk.

(c) *Vice-mayor—Selection and term.* Immediately subsequent to the selection of a mayor, the city council shall elect a vice-mayor from among its members. The term of the vice-mayor shall be for one year or until his or her successor is elected. The vice-mayor shall be elected using the same procedure as for the election of mayor.

(d) *Vice-mayor—Duties, general.* In the absence or disability of the mayor, the vice-mayor

shall serve as mayor during such absence or disability. In the absence or disability of both the mayor and vice-mayor, the senior member of city council shall serve as mayor during such absence or disability.

(e) *Vacancies.* In the event the office of mayor shall become vacant during the course of a term, the vice-mayor shall succeed to the office of mayor. In the event the office of vice-mayor shall become vacant during the course of a term, a new vice-mayor shall be chosen as the first order of business at the next council meeting.

(Ord. No. O-91-30, § 1, 1-8-92; Ord. No. O-93-03, § 5, 1-27-93; Ord. No. O-99-23, § 1, 11-3-99, election of 3-14-00; Ord. No. O-06-10, § 1, 10-11-06; Ord. No. O-06-11, § 2, 10-11-06; Ord. No. O-11-13, § 2, 7-13-11, election of 11-8-11)

#### **Sec. 2.07. - General powers and duties.**

All powers of the city shall be vested in the city council, except as otherwise provided by law or this Charter, and the city council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law.

(Ord. No. O-91-29, § 1, 1-8-92)

#### **Sec. 2.08. - Vacancies; forfeiture of office; filling of vacancies.**

(a) *Vacancies.* The office of council member or the mayor shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

(b) *Forfeiture of office.* A council member or the mayor shall forfeit his/her office if he/she:

- (1) Lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law;
- (2) Violates any express prohibition of this Charter;
- (3) Is convicted of a crime involving moral turpitude; or
- (4) Fails to attend three (3) consecutive regular meetings of the city council without being excused by the city council.

(c) *Filling vacancies.* Any vacancy in the office of council member shall be filled in accordance with the provisions of this subsection:

- (1) If there is a scheduled citywide election within six months of the occurrence of the vacancy, the remaining members of the city council may either (A) permit the vacancy to be filled at that election, or (B) appoint a replacement.
- (2) If there is no scheduled citywide election within six months of the occurrence of the vacancy, the remaining members of the city council shall appoint a replacement within 45 days.

In the event the city council fills a vacancy by appointment, the person chosen to fill the office shall at the time of appointment meet the qualifications for a member of the

city council. An appointed city council member shall serve only until the next citywide election. If the vacancy has occurred in the term of a city council member that extends beyond the next citywide election, the remainder of the unexpired term shall be filled at that election, and the candidate shall run specifically for that seat on the city council.

(d) *Filling vacancies in candidacy.* In the event that following the close of the official qualifying period set out in Charter Section 4.02(b), the number of legally qualified candidates is fewer than the number of seats open for election, the new city council shall fill the vacancy in office in the same manner described above in paragraph (c) of this section.

(Ord. No. O-88-43, § 2, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-91-30, § 2, 1-8-92; Ord. No. O-93-02, § 2, 1-27-93; Ord. No. O-99-24, § 1, 11-3-99, election of 3-14-00; Ord. No. O-11-09, § 2, 7-13-11, election of 11-8-11)

**Editor's note**— Section 1 of Ord. No. O-88-43, adopted January 11, 1989, repealed former § 2.08 in its entirety and § 2 of the ordinance renumbered § 2.09 as § 2.08. The repealed provisions pertained to supervision over administrative officers and derived from the original Charter of the city adopted by Ord. No. O-78-9 on October 9, 1978.

#### **Sec. 2.09. - Judge of qualifications.**

The Florida Division of Elections, the Florida Elections Commission (or successor state agencies) or the courts shall determine issues relating to the election and qualifications of city council members and of the grounds for forfeiture of their office.

(Ord. No. O-88-43, § 3, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-99-25, § 1, 11-3-99, election of 3-14-00; Ord. No. O-11-14, § 2, 7-13-11, election of 11-8-11)

**Editor's note**— Section 3 of Ord. No. O-88-43, adopted January 11, 1989, renumbered § 2.10 as § 2.09.

#### **Sec. 2.10. - City council-employee relationship.**

Neither the city council nor any of its members shall in any manner dictate the appointment or removal of any city employee except the charter officers nor shall the city council or any of its members give orders to any employee, other than city council orders to a charter officer. The city council or its members shall implement all policy matters through the appropriate charter officer.

(Ord. No. O-88-43, § 4, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92)

**Editor's note**— See the editor's note following § 2.09.

#### **Sec. 2.11. - Investigations.**

The city council may make investigations into the affairs of the city and the conduct of any city department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

(Ord. No. O-88-43, § 8, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-11-11, § 2, 7-13-11, election of 11-8-11)

**Editor's note**— Sections 5—7 of Ord. No. O-88-43, adopted January 11, 1989, repealed former §§ 2.11—2.13 which pertained to the city manager, city clerk and city treasurer and derived from the Charter adopted October

9, 1978, by Ord. No. O-78-9. Sections 2.14—2.19 of the Charter were renumbered as §§ 2.11—2.16 by §§ 8—13 of Ord. No. O-88-43.

### **Sec. 2.12. - Procedure.**

(a) *Meetings.* The city council shall meet regularly at least once a month at such times and places as the city council may prescribe by resolution. Special meetings of the city council may be held on the call of the mayor or any council member. There shall be at least twenty-four (24) hours advance notice of any special council meeting called and said meetings shall only be held after 5 p.m. If a public emergency exists any council member or charter officer may call a special meeting, and the advance notice requirement as well as the time restriction shall be waived. All city council meetings shall be public meetings, except as otherwise permitted by law.

(b) *Rules and journal.* The city council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record.

(c) *Voting.* Voting may be by voice vote, except that a roll call vote shall be required on appropriation of funds, for the approval of an ordinance or upon any motion upon the call of any council member. The ayes and nays on each roll call vote shall be recorded in the minutes of the meeting. Three (3) members of the city council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent council members in the manner and subject to the penalties prescribed by the rules of the city council then in force. No action of the city council, except as otherwise provided in this Charter, shall be valid or binding unless adopted by the affirmative vote of three (3) or more council members.

(Ord. No. O-88-43, § 9, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-91-30, § 3, 1-8-92; Ord. No. O-93-02, § 3, 1-27-93; Ord. No. O-99-26, § 1, 11-3-99, election of 3-14-00; Ord. No. O-06-13, § 1, 10-11-06)

**Editor's note—** See the editor's note following § 2.11

### **Sec. 2.13. - Emergency ordinances.**

To meet a public emergency affecting life, health, property or the public peace, the city council may adopt one (1) or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except an emergency appropriation. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least four (4) members shall be required for adoption. After its adoption the ordinance shall be posted as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except an emergency appropriation shall automatically stand repealed as of the ninety-first (91st) day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(Ord. No. O-88-43, § 10, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92)

**Editor's note**— See the editor's note following § 2.11

**State law reference**— Uniform minimum requirements for adoption of ordinances, F.S. § 166.041.

#### **Sec. 2.14. - Codes of technical regulations.**

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

- (1) The requirements of state law for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and
- (2) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the city clerk.

(Ord. No. O-88-43, § 11, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92)

**Editor's note**— See the editor's note following § 2.11

#### **Sec. 2.15. - Authentication and recording; codification; printing.**

(a) *Authentication and recording.* The city clerk shall authenticate by such clerk's signature and record in full in a properly indexed book kept for such purpose all ordinances and resolutions adopted by the city council.

(b) *Codification.* The city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the city council by ordinance and shall be published promptly in bound or looseleaf form, together with this Charter and any amendments thereto, and such codes of technical regulations and other rules and regulations as the city council may specify. This codification shall be known and cited officially as the Code of Ordinances of the City of Sebastian, Florida. Copies of the Code shall be furnished to city officers, placed in libraries and public offices for free public reference, and made available for purchase by the public at a reasonable price fixed by the city council. The Code of Ordinances of the City of Sebastian, Florida, as amended as of the effective date of this ordinance, is hereby validated, confirmed and shall be admissible in evidence in the courts of the state without proof of any procedural notice or action relating to their adoption.

(c) *Printing of ordinances and resolutions.* The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the city council. Following publication of the first Sebastian City Code and at all times thereafter, the ordinances, resolutions and charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein.

(Ord. No. O-88-43, § 12, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92)

**Editor's note**— See the editor's note following § 2.11

## **Sec. 2.16. - Standing committees.**

(a) Standing committees may be appointed by the city council. The membership, powers and duties of such committees shall be provided by the resolution or ordinance of the city council.

(b) Periodic reports to the city council shall be made by the standing committees as to the accomplishments and future activities contemplated by each standing committee, as directed by the city council.

(Ord. No. O-88-43, § 13, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-91-30, § 4, 1-8-92; Ord. No. O-99-27, § 1, 11-3-99)

**Editor's note**— See the editor's note following § 2.11

## **ARTICLE III. - ADMINISTRATION AND LEGAL DEPARTMENTS <sup>[3]</sup>**

<sup>(3)</sup> **Editor's note**— Section 14 of Ord. No. O-88-89, adopted January 11, 1989, repealed former Art. III, which contained §§ 3.01—3.05, and enacted a new article III to read as set out herein. The repealed article pertained to similar provisions and derived from the Charter adopted by Ord. No. O-78-9 on October 19, 1978.

DIVISION 1. - GENERALLY  
DIVISION 2. - POLICE DEPARTMENT  
DIVISION 3. - LEGAL

### **DIVISION 1. - GENERALLY**

Sec. 3.01. - Creation.  
Sec. 3.02. - Appointment [of Charter officers].  
Sec. 3.03. - Removal of Charter officers.  
Sec. 3.04. - City manager; powers and duties.  
Sec. 3.05. - City clerk.

#### **Sec. 3.01. - Creation.**

The city manager, city clerk and city attorney are designated Charter officers.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-02, § 4, 1-27-93; Ord. No. O-06-14, § 1, 10-11-06)

#### **Sec. 3.02. - Appointment [of Charter officers].**

The Charter officers shall be appointed by the city council and serve at the pleasure of the city council subject to the provisions of section 3.03 of this article.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92)

### **Sec. 3.03. - Removal of Charter officers.**

(a) Any Charter officer may be removed from office for cause, or without cause pursuant to the terms of an employment agreement, by a majority vote of the entire city council.

(b) In the event that one or more council members believes that cause exists for the removal of a Charter officer, such council members shall present written charges to the entire city council at a regularly scheduled meeting for discussion. The city council may, by a vote of at least three (3) council members that said charge would, if proved, constitute a violation and that a reasonable basis exists for believing the violation occurred, formally charge the named Charter officer with misconduct and immediately suspend such Charter officer from office. Notice of the suspension and the specific charges of misconduct shall be served upon the affected Charter officer in person or by certified or registered mail, return receipt requested, to the last known address of the affected Charter officer. The suspended Charter officer shall have the right to a hearing before the city council upon request. The suspended Charter officer shall be given a reasonable period of time in order to prepare for such hearing. At the conclusion of the hearing, the suspended Charter officer shall be removed if the city council finds, by a vote of at least three (3) council members that cause exists to support such removal. In the event that at least three (3) council members do not find that cause exists for removal, the suspended Charter officer shall be immediately reinstated to his or her Charter office.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-02, § 5, 1-27-93; Ord. No. O-99-28, § 1, 11-3-99, election of 3-14-00; Ord. No. O-99-29, § 1, 11-3-99, election of 3-14-00)

### **Sec. 3.04. - City manager; powers and duties.**

(a) The city manager shall be the chief administrative officer of the city.

(b) The city manager, when necessary, shall appoint, suspend, demote, or dismiss any city employee under his jurisdiction in accordance with the law and the personnel rules of the city and may authorize any department head to exercise these powers with respect to subordinates in his respective department.

(c) The city manager shall direct and supervise the administration of all departments of the city except the offices of the city clerk and city attorney. He shall attend all city council meetings unless excused by city council and shall have the right to take part in discussions, but not vote.

(d) The city manager shall see that all laws, Charter provisions, ordinances, resolutions, and other acts of the city council subject to enforcement by the city manager are faithfully executed.

(e) The city manager shall also prepare and submit the annual budget, budget message, and capital program to the city council and shall keep the city council fully advised as to the financial condition and future needs of the city, and shall make such recommendations to the city council concerning the affairs of the city as he deems desirable. The city council shall adopt the annual budget, millage rate and capital program, as presented or as modified, by resolution.

(f) The city manager shall designate a qualified city employee to exercise the powers and perform the duties of city manager during any temporary absence or disability of the city manager. The city council may revoke such designation at any time and appoint another eligible person, other than a sitting council member, to serve as acting city manager.

(g) The city manager, as authorized by the City Charter, the Sebastian Code of Ordinances, or by the direction of the city council, shall sign all contracts, bonds, debentures, franchises and official documents on behalf of the city, which shall also be attested by the city clerk.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-91-30, § 5, 1-8-92; Ord. No. O-99-23, § 1, 11-3-99, election of 3-14-00; Ord. No. O-99-30, § 1, 11-3-99, election of 3-14-00)

**Sec. 3.05. - City clerk.**

The city clerk shall give notice of city council meetings to its members and the public, keep the journal of its proceedings and perform such other duties as are assigned to the clerk by this Charter or by the city council.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92)

**DIVISION 2. - POLICE DEPARTMENT**

Sec. 3.06. - Police department.

Sec. 3.07. - Reserved.

Sec. 3.08. - Reserved.

**Sec. 3.06. - Police department.**

The City of Sebastian shall maintain its own Police Department, and daily operations of said police department will be overseen by a chief of police who will be a certified police officer and who will come under the purview of the city manager.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-06-15, § 1, 12-13-06)

**Sec. 3.07. - Reserved.**

**Editor's note**— Ord. No. O-06-15, § 1, adopted Dec. 13, 2006, repealed § 3.07, which pertained to the duties and authority of the chief of police and derived from Ord. No. O-88-43, § 14, adopted Jan. 1, 1989.

**Sec. 3.08. - Reserved.**

**Editor's note**— Ord. No. O-06-15, § 1, adopted Dec. 13, 2006, repealed § 3.08, which pertained to the duties and authority of police officers and derived from Ord. No. O-88-43, § 14, adopted Jan. 1, 1989 and Ord. No. O-93-02, § 6, adopted Jan. 27, 1993.

**DIVISION 3. - LEGAL**

**Sec. 3.09. - City attorney.**

(a) There shall be a city attorney of the city who shall serve as chief legal advisor to the city council and all city departments, offices and agencies, shall represent the city in all legal proceedings and shall perform any other duties prescribed by this Charter or by ordinance.

(b) The city council shall have authority to retain additional counsel in specific actions or proceedings in its discretion.

(c) The city attorney shall receive such compensation as may be determined by the city council.

(Ord. No. O-88-43, § 14, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-06-16, § 1, 10-11-06)

## ARTICLE IV. - ELECTIONS <sup>[4]</sup>

<sup>(4)</sup> **State Law reference**— Electors and elections, F.S. ch. 97 et seq.

Sec. 4.01. - Adoption of state election laws.

Sec. 4.02. - Filing of candidate's oath; fee.

Sec. 4.03. - Reserved.

Sec. 4.04. - Special election for other purposes.

Sec. 4.05. - Reserved.

Sec. 4.06. - Reserved.

Sec. 4.07. - Reserved.

Sec. 4.08. - City canvassing board; canvass of election returns.

Sec. 4.09. - Same—Ballots.

Sec. 4.10. - Reserved.

Sec. 4.11. - Reserved.

Sec. 4.12. - Election procedures; tie vote.

Sec. 4.13. - Reserved.

Sec. 4.14. - Interim government.

### **Sec. 4.01. - Adoption of state election laws.**

All general laws of the State of Florida, relating to elections and the registration of persons qualified to vote therein which are not inconsistent or in conflict with the provisions hereof or the ordinances of the City of Sebastian, shall be applicable to all city elections.

### **Sec. 4.02. - Filing of candidate's oath; fee.**

(a) Each candidate, in order to qualify for election to the office of council member, shall take and subscribe to an oath or affirmation in writing. A printed copy of the oath or affirmation shall be furnished to the candidate by the city clerk and shall comply with the provisions of Florida law.

(b) The oath set forth in subsection (a) shall be filed with the city clerk at least sixty (60) days, but no more than seventy-five (75) days, prior to the day of the election, along with payment of a nonrefundable filing fee in an amount to be set forth by Code.

(Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-04, § 1, 1-27-93; Ord. No. O-99-31, § 1, 11-3-99, election of 3-14-00; Ord. No. O-06-17, § 1, 10-11-06)

### **Sec. 4.03. - Reserved.**

**Editor's note**— Section 4.03, pertaining to special municipal elections to elect elective officers was repealed in its entirety by Ord. No. O-93-04, § 2, adopted January 27, 1993.

### **Sec. 4.04. - Special election for other purposes.**

A special election for a purpose other than the nomination or election of city officials, may be authorized by resolution at any time by the city council; provided, not less than thirty (30) days nor more than sixty (60) days intervene between the date of the adoption of the resolution and

the date of the election, unless a different time be otherwise provided in this Charter by ordinance or by statutory law or constitutional provisions, under authority of which the election is called. Any matter or matters which by the terms of this Charter, which may be submitted to the electors of the city at any special election, may be submitted and voted upon at the regular municipal election.

**Sec. 4.05. - Reserved.**

**Editor's note**— Ord. No. O-06-17, § 2, adopted Oct. 11, 2006, repealed § 4.05, which pertained to calling an election by resolution and derived from the original codification.

**Sec. 4.06. - Reserved.**

**Editor's note**— Section 4.06, pertaining to election precincts and polling places and the right for the city to designate same, derived from Ord. No. O-91-29, § 1, adopted January 8, 1992. Ord. No. O-93-04, § 3, adopted January 27, 1993, repealed this section in its entirety.

**Sec. 4.07. - Reserved.**

**Editor's note**— Ord. No. O-11-08, § 2, adopted July 13, 2011 and approved at an election of Nov. 8, 2011, repealed § 4.07, which pertained to elections—how arranged; inspectors and clerks and derived from Ord. No. O-91-29, § 1, adopted Jan. 8, 1992; Ord. No. O-93-04, § 4, adopted Jan. 27, 1993 and Ord. No. O-06-17, § 3, adopted Oct. 11, 2006.

**Sec. 4.08. - City canvassing board; canvass of election returns.**

(a) If the city is not holding its election as a part of the election for Indian River County, Florida, the city clerk shall appoint a city canvassing board to be composed of three (3) individuals; one (1) member shall be the city clerk, one (1) member shall be the city attorney, and the remaining member shall be appointed by the city clerk. The city clerk shall act as chairperson of the city canvassing board.

(b) When a city canvassing board has been constituted, the city canvassing board shall meet at a place and time designated by the chairperson, as soon as practicable after the close of the polls of any municipal election involving the city, at which time, the city canvassing board shall proceed to publicly canvass the absentee electors' ballots and then publicly canvass the vote as shown by the returns then on file in the office of the supervisor of elections for Indian River County, Florida. The city canvassing board shall prepare and sign a certificate containing the total number of votes cast for each person or other measure voted on. The certificate shall be placed on file with the city clerk.

(Ord. No. O-93-04, § 5, 1-27-93; Ord. No. O-99-32, § 1, 11-3-99, election of 3-14-00; Ord. No. O-11-13, § 2, 7-13-11, election of 11-8-11)

**Editor's note**— Ord. No. O-11-13, § 2, adopted July 13, 2011 and approved at an election on Nov. 8, 2011, amended § 4.08 title to read as herein set out. Former § 4.08 title pertained to the same subject matter.

**Sec. 4.09. - Same—Ballots.**

The ballots shall conform to the form of ballots prescribed by the general election laws of the State of Florida.

(Ord. No. O-93-04, § 6, 1-27-93)

**Sec. 4.10. - Reserved.**

**Editor's note**— Ord. No. O-06-17, § 4, adopted Oct. 11, 2006, repealed § 4.10, which pertained to voting machines and derived from the original codification.

**Sec. 4.11. - Reserved.**

**Editor's note**— Ord. No. O-06-17, § 5, adopted Oct. 11, 2006, repealed § 4.11, which pertained to absentee voting and derived from the original codification.

**Sec. 4.12. - Election procedures; tie vote.**

(a) In all general or special elections, the candidates receiving the highest vote in each of the offices of council member to be filled, shall be elected for two-year terms, or the balance of the term.

(b) In the event that at any election there are two (2) or more candidates for the same office and they should receive the same number of votes, the question shall be decided by a special run-off election between the tied candidates to be held no later than thirty (30) days after the results of the initial election are declared by city council.

(Ord. No. O-84-3, § 1, 2-1-84; Ord. No. O-88-44, § 1, 1-11-89; Ord. No. O-91-29, § 1, 1-8-92; Ord. No. O-93-04, § 7, 1-27-93; Ord. No. O-98-19, § 1, 11-18-98; Ord. No. O-99-33, § 1, 11-3-99, election of 3-14-00)

**Editor's note**— Ord. No. O-98-19, adopted Nov. 18, 1998, amended § 4.12(b) to read as herein set out. Such amendment was approved by the voters at an election held Mar. 9, 1999.

**Sec. 4.13. - Reserved.**

**Editor's note**— Ord. No. O-11-14, § 2, adopted July 13, 2011 and approved at an election on Nov. 8, 2011, repealed § 4.13, which pertained to conduct of candidates for election office and derived from Ord. No. O-99-34, § 1, adopted Nov. 3, 1999, election of March 14, 2000.

**Sec. 4.14. - Interim government.**

Should a condition arise where there should be no city council serving, either through death, resignation or otherwise, in the interim until a special election can be called to fill such vacancies, the city clerk shall have the power to fill the vacancies until successors are elected, and such city council so appointed shall call a special election as provided by this Charter. In the event of the inability or refusal of the city clerk to serve in such capacity or to fill such vacancies, within five (5) days after such condition arises, the city manager shall do so. In the event of the inability or refusal of the city manager to act within twenty-four (24) hours, the city attorney shall do so.

(Ord. No. O-99-35, § 1, 11-3-99, election of 3-14-00)

**State law reference**— Emergency continuity of government, F.S. ch. 22.

**ARTICLE V. - GENERAL PROVISIONS**

Sec. 5.01. - Severability of provisions.

Sec. 5.02. - Effective date.

Sec. 5.03. - Charter review committee.

**Sec. 5.01. - Severability of provisions.**

If for any reason any section, paragraph or part of this Charter shall be held invalid or unconstitutional, that fact shall not affect, invalidate or destroy any other section, paragraph or part of this Charter, and the remaining portions thereof shall remain in full force and effect without regard to the section, paragraph or portion invalidated.

(Ord. No. O-93-02, § 7, 1-27-93)

**Sec. 5.02. - Effective date.**

This Charter shall take effect January 1, 1979.

**Sec. 5.03. - Charter review committee.**

Not later than April 15 of the year 1999 and of every 5th year thereafter, the city council shall appoint a charter review committee to review the Charter of the city. Each charter review committee shall consist of fifteen (15) residents of the city. The committee shall otherwise be appointed in the manner provided by the Code of Ordinances. The committee shall be funded by the city council and shall be known as the "City of Sebastian Charter Review Committee." It shall, within six (6) months from the date of its formation, present to the city council its final recommendation for amendment of the Charter or its recommendation that no amendment is appropriate. If amendment is to be recommended, the charter review committee shall conduct two (2) public hearings, at intervals of not less than fourteen (14) days, prior to the transmittal of its recommendations to the city council. The city council may by ordinance submit any or all of the recommended amendments to the electors for vote at the next general election held within the city or at a special election called for said purpose.

(Ord. No. O-98-13, § 1, 10-14-98; Ord. No. O-06-18, § 1, 10-11-06)

**Editor's note**— Ord. No. O-98-13, § 1, amended the Charter by adding § 5.03 to read as herein set forth. Such amendment was approved by the voters at an election held Mar. 9, 1999.

**ARTICLE VI. - TRANSITION**

Sec. 6.01. - Title to property reserved.

Secs. 6.02, 6.03. - Reserved.

Sec. 6.04. - Ordinances preserved.

Sec. 6.05. - Continuation of former Charter provisions.

**Sec. 6.01. - Title to property reserved.**

The title, rights and ownership of all real and personal property, taxes due and unpaid, uncollected permits, dues, fees, judgments, choses in action, penalties, decrees and all property rights held or owned by the City of Sebastian, shall succeed to and be vested in the City of Sebastian, a municipal corporation created, existing and organized under the provisions of this Charter.

**Secs. 6.02, 6.03. - Reserved.**

**Editor's note**— Ord. No. O-99-36, § 1, adopted Nov. 3, 1999, and approved by the voters at an election held Mar. 14, 2000, repealed §§ 6.02, 6.03, which pertained to unimpaired obligations of the city and holdover of city officers and employees pursuant to the adoption of the 1979 Charter.

**Sec. 6.04. - Ordinances preserved.**

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

**Sec. 6.05. - Continuation of former Charter provisions.**

All provisions of the former City Charter which are not embraced herein and which are not inconsistent with this Charter shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.