

## ARTICLE IV. CITY MANAGER

### Sec. 39. Appointment of city manager.

The commission shall appoint a city manager for an indefinite term and fix his compensation. He shall be chosen solely on the basis of his executive and administrative qualifications and need not be a resident of the city or state at the time of his appointment. No commissioner shall receive such appointment during the term for which he shall have been elected, nor within one year after the expiration of his term.

### Sec. 40. Removal of city manager.

The city manager may be removed by the city commission at any time with or without cause.

### Sec. 41. Absence, disability, or suspension of city manager.

To perform his duties during his temporary absence or disability, the city manager may, with the approval of the commission, designate by letter filed with the city clerk a qualified administrative officer of the city. If the city manager fails to make such designation or if there is a vacancy in the office of city manager, the commission may designate by resolution a qualified person, or an employee of the city to perform the duties of city manager during his absence or disability or during said vacancy.

### Sec. 42. Powers and duties of city manager.

The city manager shall be the chief executive and administrative head of the municipal government and shall be responsible to the commission for the proper administration of all affairs of the city. He shall exercise general supervision and control over all city departments, except the office of city clerk, city attorney and city auditor. His powers and duties shall be:

- (a) To see that the laws and ordinances are enforced;
- (b) To supervise the operation of the merit system and to uphold and enforce the principles of merit and fitness in all personal actions affecting city officials and employees coming within his jurisdiction;
- (c) To appoint and, when necessary for the good of the service, to transfer, demote, remove or suspend all officers and employees of the city except as otherwise provided by this charter and except as he may authorize the head of a department or office to appoint, or suspend subordinates in such department or office;
- (d) To fix the number of employees in the city departments, determine their duties and conduct a comprehensive program of in-service training for city officials and employees to help them develop their talents and skills and increase their proficiency;
- (e) To prepare the annual budget and submit it to the commission not later than August 15 of each fiscal year and to be responsible for its execution after adoption by the commission;
- (f) To keep the commission fully informed of the financial condition and future needs of the city and to make such recommendations as he may find desirable;
- (g) To prepare and submit to the commission as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;
- (h) To attend all meetings of the commission with the right to take part in the discussion but without a vote;
- (i) To appoint[,] with the approval of the city commission, a finance director for the city, who shall be under the supervision and direction of the city manager;
- (j) To perform such other duties as may be prescribed by this charter or required of him by the commission, not inconsistent with this charter.

(Laws of Fla., Ch. 65-1552, § 6; Laws of Fla., Ch. 71-643, § 7)

## ARTICLE V. CITY DEPARTMENTS AND AGENCIES

### Sec. 43. Departmental organization.

There shall be a department of finance, a police department, an office of city auditor, an office of city clerk, an office of city attorney, a city prosecuting attorney, a personnel officer, a municipal court and such other departments and offices as provided in this act or may be established by the city commission by ordinance.

Each department as herein established, except the city auditor, city clerk, the city attorney, the municipal court, and the city prosecuting attorney, shall be administered by an officer designated by, and subject under this charter to the direction and supervision of the city manager. With the consent of the city commission, the city manager may serve as the head of one or more departments; provided, however the city manager shall not serve as personnel officer or director of finance, or auditor; provided further that the director of finance shall not serve as city clerk or auditor.

(Laws of Fla., Ch. 65-1552, § 7)

**Editor's note**--This section was amended by Ord. No. G-356, § 2, adopted August 1, 1977 without referendum. As it appears that this section cannot be amended without a referendum (see F.S. §§ 166.021, 166.031), the section has been restored to read as amended by Laws of Fla. ch. 65-1552, § 7. References in the above section to the municipal court and city prosecuting attorney are obsolete.

#### Sec. 44. City clerk.

The city commission shall appoint a city clerk for an indeterminate term and fix his compensation. ~~[Text deleted.] His powers and duties shall be:~~

- ~~(a) To attend all meetings of the commission, in person or by deputy clerk, and keep permanent minutes of its proceedings, which shall be approved and engrossed in a well bound book and signed by the mayor and attested by the clerk or deputy clerk at the next regular meeting.~~
- ~~(b) To be the custodian of the city seal, all ordinances and resolutions and all records and papers of a general or permanent character pertaining to the affairs of the city.~~
- ~~(c) [Repealed by Laws of Fla., Ch. 69-1065.]~~
- ~~(d) [Reserved.]~~
- ~~(e) To preserve, file and index all contracts to which the city is a party, which file and record shall be open to the inspection of all interested persons at all reasonable times.~~
- ~~(f) To perform such other duties as may be prescribed by this charter or required of him by the commission.~~
- ~~(g) To collect all occupational and dog license fees.~~

(Laws of Fla., Ch. 65-1556, § 3; Laws of Fla., Ch. 67-1391, §§ 8, 9; Laws of Fla., Ch. 69-1065, § 5)

**Editor's note**--Pursuant to F.S. § 166.021, the provisions of section 44 (first sentence excepted) were either repealed as a limitation on power or assumed ordinance status. Such provisions have been included in the Code. See the code comparative table for the 1957 Charter for their location in the Code.

#### Sec. 45. City attorney.

(a) The city commission shall appoint a city attorney for an indefinite term and fix his compensation. ~~[Text deleted.] He shall be a practicing attorney who is a member in good standing of the Florida Bar who shall act as the legal advisor to, and counselor for, the city and all of its officers in matters relating to their official duties, and shall attend all meetings of the city commission, unless excused by the commission. He shall prepare all contracts, bonds and other instruments in writing in which the city is concerned, and shall endorse on each his approval of the form and correctness thereof, and no contract with the city shall take effect until his approval is so endorsed thereon. The city attorney, subject to the approval of the state's [state] attorney, may be assigned the duties of a special prosecuting attorney in county court at the will of the city commission. If the city attorney shall engage in private practice with the consent of the city commission, he shall, under no circumstances, accept retainerships, temporary or permanent, from the State of Florida or any of its component agencies, the County of St. Lucie, the district school board of St. Lucie County, or any other municipality or special taxing districts situate wholly within the boundaries of St. Lucie County.~~

~~(b) The foregoing language in this section shall never be construed to require the city attorney to endorse his approval of the form and correctness on bonds and revenue certificates issued by the city.~~

~~(e) When required to do so by the city manager or the city commission, he shall prosecute and defend[,] for and in behalf of the city, all complaints, suits and controversies in which the city is a party. He shall furnish the city commission, the city manager, the head of any department, or an officer or board not included in any department, his opinion on any question of law relating to their respective powers and duties.~~

(Laws of Fla., Ch. 65-1552, § 8; Laws of Fla., Ch. 71-643, § 8; Ord. No. G-356, § 4, 8-1-77)

Editor's note--Pursuant to F.S. § 166.021, the provisions of section 45 (first sentence excepted) were either repealed as a limitation on power or assumed ordinance status. Such provisions have not been included in the Code and are, therefore, repealed by the adoption of the Code.

#### Sec. 46. Claims against city.

[Text deleted.]

- ~~(a) *Tort actions; notice of injury limitations; information to include in notice.* No suit shall be maintained against the city for damages arising out of any tort unless it shall be made to appear that the damage alleged is attributable to the negligence of the city, and that written notice of such damage was, within thirty (30) days after the receiving of the injury alleged, presented to the city commission with such reasonable specification as to time and place and witnesses as would enable the city officers to investigate the matter.~~
- ~~(b) *Commission to act on notice in injury.* It shall be the duty of the city commission to inform its attorney, upon receiving notice required by the preceding [subsection], and the city attorney shall promptly investigate the matter and lay the facts, before the commission in a written report, and the commission may, by resolution, after such report, affect [effect] a reasonable settlement for the injury suffered, or deny liability and direct the city attorney to defend any suit brought for the recovery of damages.~~
- ~~(c) *Notice of action prerequisite to institution.* No suit shall be instituted against the city unless a written statement giving the particulars of the alleged cause of action, containing a notice of intention to sue, be filed at least thirty (30) days before such suit is instituted, with the city commission.~~
- ~~(d) *Limitation of actions.* Suits on all causes of actions of whatever kind or nature, accruing against the city shall be instituted within twelve (12) months after the cause of action accrues.~~

Editor's note--The provisions of section 46 have been deleted as superseded by F.S. § 768.28.

#### Sec. 47. [Repealed.]

(Laws of Fla. ch. 61-3177, § 1; Ch. 65-1557, § 1; Ch. 67-1391, §§ 10, 11; Ch. 71-643, § 9; Ord. No. Ord. No. G-334, § 1, 3-28-77)

**Editor's note**—Former § 47, pertaining to the municipal court, was repealed by Ord. No. G-334

#### Sec. 48. Police department.

(a) There is hereby created in the city a police department for the preservation and enforcement of law and order within the city. Such police department shall be composed of a chief of police and as many subordinate officers and employees as the city manager may direct.

(b) The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, subject to the approval of the city manager or under such rules and regulations as may be prescribed by ordinances of the city.

(c) The chief of police shall be appointed by the city manager with the approval of the city commission and may be discharged by the city commission or by the city manager with the consent of the city commission with or without cause.

~~(d) The chief of police and his deputies shall have the power and authority immediately to arrest, with or without warrant, and also to take into custody any person who shall commit or threaten to commit in his presence or within his view any offense prohibited by the ordinances and laws of the city and shall without unnecessary delay bring the offenders before the municipal court\* to be dealt with according to law. [Text deleted.]~~

- (e) [Text deleted.] ~~When a prisoner, who is under arrest and confined to the city jail and is poor, indigent~~