



HISTORIC TOWN OF EATONVILLE, FLORIDA CHARTER REVIEW ADVISORY COMMITTEE

Tuesday, August 1, 2023 at 5:30 PM

Town Hall - 307 E Kennedy Blvd

Charter Review Advisory Committee Training Session

Please note that the HTML versions of the agenda and agenda packet may not reflect changes or amendments made to the agenda.

- I. CALL TO ORDER
- II. ROLL CALL
- III. CITIZEN PARTICIPATION (Three minutes strictly enforced)
- IV. EXPLANATION OF CHARTER REVIEW ADVISORY COMMITTEE
- V. INITIAL COMMITTEE TRAINING
 - 1. Sunshine Law (Town Attorney)
 - 2. Public Records Law (Town Attorney)
- VI. COMMENTS
 - 3. Staff Comments
- VII. ADJOURNMENT

Resource: Link to the Sunshine Law Training video provided by legal: <https://youtu.be/6Sv8ZReopn4>

The Town of Eatonville is subject to the Public Records Law. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

****PUBLIC NOTICE****

This is a Public Meeting, and the public is invited to attend. This Agenda is subject to change. Please be advised that one (1) or more Members of any of the Town's Advisory Boards/Committees may attend this Meeting and may participate in discussions. Any person who desires to appeal any decision made at this meeting will need a verbatim record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based – per Section 286.0105 Florida Statutes. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Town of Eatonville at (407) 623-8910 "at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority" - per Section 286.26

"LET THE SUNSHINE IN"

Public Meetings Law

Chapter 286 F.S.

Clifford B. Shepard



1

Florida Constitution Article I, section 24 (b)

(b) All **meetings** of any **collegial public body** of the executive branch of state government or of any collegial public body of a county, **municipality**, school district, or special district, at which **official acts are to be taken** or at which **public business** of such body is to be **transacted or discussed**, shall be **open and noticed** to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

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Florida Statute 286.011

- (1) All **meetings** of any board or commission of any state agency or authority or of any **agency or authority** of any county, **municipal** corporation, or political subdivision, except as otherwise provided in the Constitution, at which **official acts are to be taken** are declared to be public meetings **open to the public at all times**, and **no resolution, rule, or formal action** shall be considered **binding** except as taken or made at such meeting. The board or commission must provide **reasonable notice** of all such meetings.

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Florida Statute 286.011

- 2) The **minutes** of a meeting of any such board or commission of any such state agency or authority shall be **promptly recorded**, and such records shall be **open to public inspection**. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

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Notice

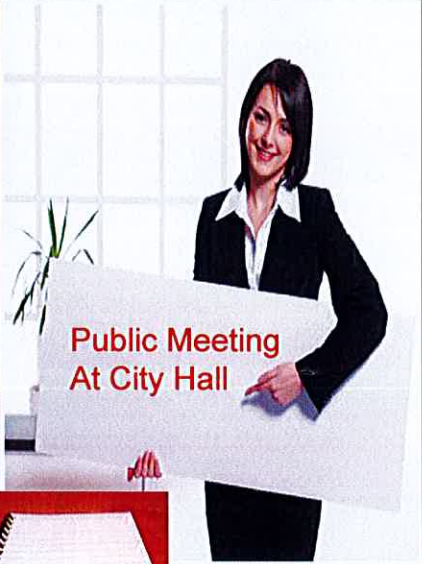
Reasonable

Location

Restaurant ☹️
 Private club ☹️
 Identification required ☹️
 In city limits ☹️
 No "CHILLING" effect

Minutes

Summary v. verbatim
 Draft is a public record
 Must be approved timely




5

Florida Statute 286.011 = MEETING LOCATION

(6) All **persons** subject to subsection (1) are **prohibited from holding** meetings at any facility or **location** which **discriminates on the basis of sex, age, race, creed, color, origin, or economic status** or which **operates** in such a manner as to **unreasonably restrict public access** to such a facility.

- **Public meetings must be accessible to the physically handicapped Chapter 286.26 FS**

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Florida Statute 286.011

- **Knowingly attending a meeting in violation of the statute is a misdemeanor of the second degree**
- **Conduct outside the State is a misdemeanor of the second degree**
- **A court may assess an attorney's fee against you for enforcement of this statute unless you have sought and followed the advice of the city's attorney**

7

7

What is a public meeting?

Florida Constitution

Meeting of a collegial public body at which official acts taken or business discussed

Florida Statutes

Meeting at which official acts taken

Case Law

All meetings where there are discussions of matters which may foreseeably come before a board or commission

"All meetings" include staff, committees, temporary groups or even a single person.

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Yes, Prosecutions Still Happen

Grand Jury To Review Century Town Operations; Council Members Charged With Sunshine Law Violations

January 4, 2019



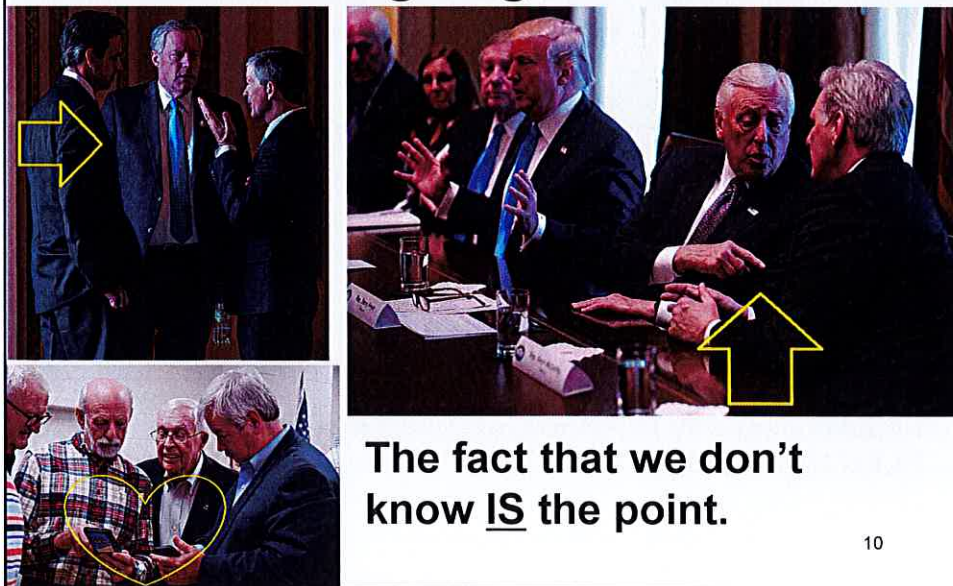
A grand jury will investigate operations of the Town of Century, and three council members have been charged with violating the Sunshine Law.

"A number of issues have been brought to the attention of the State Attorney's Office regarding the manner in which the town has operated, and these are the issues that may be brought before the grand jury," Assistant State

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What's going on here?



The fact that we don't
know IS the point.

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W.D. Childers goes to jail

Ex-Senate president goes to jail
W.D. Childers starts a 60-day sentence for campaign law violations even as his lawyer asks a judge to set him free.



W.D. Childers comments briefly as he enters jail Tuesday in Pensacola. He said he had no reason to be scared. 11

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Florida Statute 286.011

- The statute is “broadly construed to effect it’s remedial and protective purposes.”
- Applicable to elected and appointed bodies
- Substantial delegation affecting a decision...single individual
- Recommendations limit choices; part of decision process
- Fact finding only IS AN EXCEPTION: **EXCEPT FOR ELECTED BODIES!**

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Major Exceptions – ALL STATUTORY

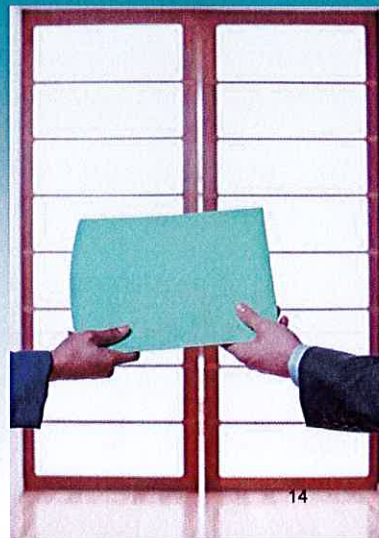
- Pending litigation...settlement negotiations or strategy sessions related to litigations expenditures...limited attendees
- Labor negotiations-bargaining team – exemption as to public meetings and public records Chap 447 F.S.
- Risk management committee
- Security system meeting
- Negotiation with a vendor

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Exchange of written memorandums

- First bite at the apple
- No response

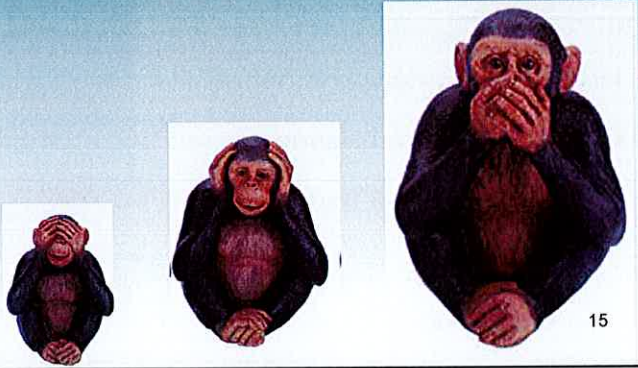


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Outside Contact

- You can socialize with other board members
- You can attend the same meeting....**BUT...**



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You Can Cure a Violation

- No rubber stamp meeting
- Ultimate decision safeguarded
- Multiple cases describing proper procedure

**Cure...
Don't Ignore**



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Notice

Location

Minutes

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Current Challenges

E-mail... twitter... texting... Facebook... websites

Times editorials

Digital age Sunshine

Florida has a proud history of strong open-government laws. But they haven't always kept pace with progress. Consider, for example, the city council members who text or e-mail each other during meetings to skirt open communication. That's not in the public interest.

Now a 178-page report produced by a special governor's commission provides the road map for Gov. Charlie Crist and the Legislature to bring Florida's strong reputation for Sunshine into the 21st century.

Open government is at the core of a representative democracy. Florida's Sunshine laws are the means to ensure

Reform, after holding four public hearings across the state, unanimously approved its final report for the governor. Among its recommendations:

- Make all government contracts above a certain dollar amount accessible through the Internet, giving Floridians the tools needed to be public watchdogs.

of these public records.

- Ban government officials from using electronic communications during public meetings.

- Prohibit state agencies from charging a special fee for redacting the contents of a public record that is exempt from public view (such as the Social Security numbers of employees or a law enforcement officer's home address).

The commission was composed of a cross-section of public officials and open government advocates, including the past president of the Florida Society of Newspaper Editors, Jeanne Grinstead, a St. Petersburg Times editor. The group developed

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Thank You

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In the Sunshine

Florida Sunshine Law Public Records Ch.119 F.S.

Presented by Clifford B. Shepard



1

In the Sunshine

Public Records Law

Perpetuate

Communicate

Formalize



2

Florida Constitution Article I, section 24

- (a) **Every person** has the right to **inspect or copy** any public record made or received in connection with the **official business** of any public body, officer, or employee of the state, **or persons acting on their behalf**, except with respect to records **exempted** pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

"or persons acting on their behalf"



3

119.01 General State Policy on Public Records

- (1) It is the policy of this state that all state, county, and **municipal** records are open for **personal inspection and copying by any person**. Providing **access** to public records is a **duty** of each agency.

THE DUTY IS ALSO YOURS, IF YOU HAVE CUSTODY



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119.07 General State Policy on Public Records

- (1)(a) Every **person** who has **custody** of a public record shall permit the record to be **inspected and copied** by any person desiring to do so, at any **reasonable time**, under **reasonable conditions**, and **under supervision by the custodian** of the public records.

DO YOU HAVE CUSTODY?

TRANSFER CUSTODY TO CITY CLERK



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119.07 General State Policy on Public Records

- (c) A **custodian** of public records and his or her designee must **acknowledge** requests to inspect or copy records **promptly** and **respond to such requests in good faith**. A good faith response includes making reasonable efforts to determine from other officers or employees within the agency whether such a record exists and, if so, the location at which the record can be accessed.

DUTY: ACKNOWLEDGE PROMPTLY



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119.07 General State Policy on Public Records

- (d) A person who has **custody** of a public record who **asserts that an exemption applies** to a part of such record shall **redact** that portion of the record to which an exemption has been asserted and validly applies, and such person **shall produce the remainder** of such record for inspection and copying.

DUTY: IF PORTIONS ARE EXEMPT, REDACT AND PRODUCE
ISSUES: IS THE RECORD EXEMPT, CONFIDENTIAL
OR BOTH?



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119.07 General State Policy on Public Records

- (e) If the person who has **custody** of a public record **contends** that all or part of the record is **exempt** from inspection and copying, he or she shall **state the basis** of the exemption that he or she contends is applicable to the record, including the statutory citation to an exemption created or afforded by statute.
- (f) **If requested** by the **person seeking** to inspect or copy the record, the **custodian** of public records shall **state in writing** and with particularity the **reasons** for the conclusion that the record is exempt or confidential.

DUTY: STATE STATUTORY BASIS FOR
EXEMPTION – IN WRITING



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119.07 General State Policy on Public Records

- (4) **The custodian of public records shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law.** If a fee is not prescribed by law, the following fees are authorized:

DUTY: FURNISH COPY

ADVICE: COLLECT IN ADVANCE FOR COPY FEES



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119.07 General State Policy on Public Records

- (d) If the **nature or volume** of public records requested to be inspected or copied pursuant to this subsection is such as to require **extensive use of information technology** resources or **extensive clerical or supervisory assistance** by personnel of the agency involved, or both, **the agency may charge**, in addition to the actual cost of duplication, **a special service charge**, which shall be reasonable and shall be based on the cost incurred for such extensive use of information technology resources or the labor cost of the personnel providing the service that is actually incurred by the agency or attributable to the agency for the clerical and supervisory assistance required, or both.

DUTY: GATHER DOCUMENTS FOR INSPECTION

ADVICE: COLLECT SPECIAL SERVICE FEE IN ADVANCE



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Definition of Public Records

Statutory

Public records means **all** documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, **regardless of the physical form**, characteristics, or means of transmission, **made or received pursuant** to law or ordinance or **in connection with the transaction of official business** by any agency.



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Definition of Public Records

Case Law

Any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.

Perpetuate

Communicate

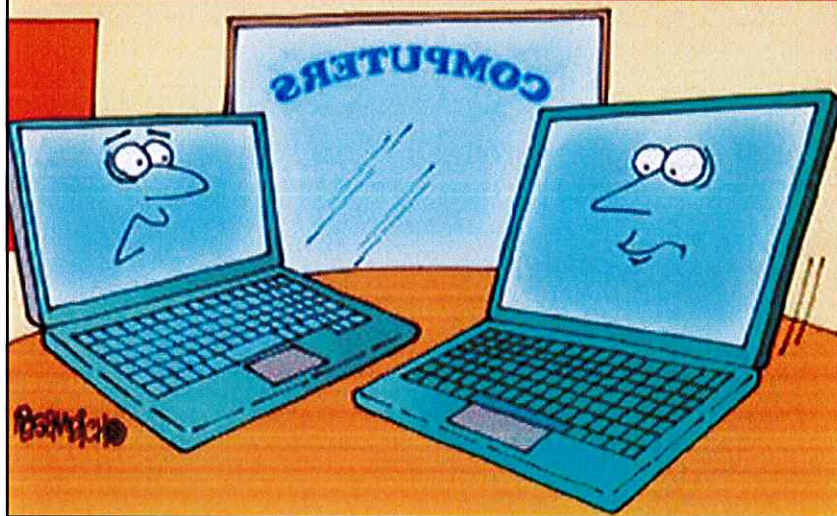
Formalize



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Clearwater Case

STATUTORY TEST: TRANSACTION OF OFFICIAL BUSINESS

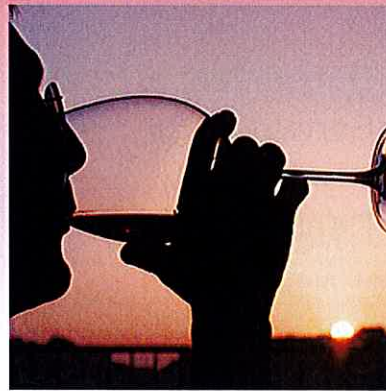


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Life Lesson

***Merlot and email do
not mix***



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Meeting Notes

Draft documents

Perpetuate

Communicate

Formalize



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Retention of Records

The custodian has an obligation to retain public records (this might be you.)

Department of State, Division of Library Services

Deposit with City Clerk



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Schwab Case

Totality of factors case
“persons acting on their behalf”



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119.10 Violation of chapter; penalties.

- (1) Any public officer who:
 - (a) Violates any provision of this chapter commits a noncriminal infraction, punishable by fine not exceeding \$500.
 - (b) **Knowingly** violates the provisions of s. [119.07](#)(1) is subject to suspension and removal or impeachment and, in addition, commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).
- (2) Any person who **willfully and knowingly** violates:
 - (a) Any of the provisions of this chapter commits a **misdemeanor** of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).
 - (b) Section [119.105](#) F.S. commits a **felony** of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).



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Yes, you can go to jail for this too.

Martin County's Sarah Heard Indicted and Booked for Public Records Violations

By [BARBARA CLOWDUS /SOURCE/BARBARA-CLOWDUS/](#)

January 5, 2018 • 8:15am



The story of Florida public records law violations in Martin County moved further into the public light Thursday for County Commissioner Sarah Heard and former commissioner Anne Scott.

Heard was indicted and booked on two criminal counts of violating public records laws, according to the Martin County Sheriff's Office. She was released on her own recognizance after her fingerprints and mug shot were taken.

Her charges are criminal misdemeanors that could lead to a fine and/or jail time if she's found guilty. She also could be removed from office by the governor.

Thursday's charges were in addition to a previous non-criminal infraction filed by the prosecutor Nov. 27 for not responding to a public records request in January 2013, to which she pleaded not guilty.

A hearing date was set for Feb. 19. The state prosecutor informed Heard's attorney, Barbara Kibbey Wagner, during a December court hearing that five days needed to be set aside for the hearing due to the case's complexity.

Officials close to the case, however, anticipate the additional misdemeanor charges will result in a request for a hearing continuance. Heard also may now ask for a jury trial, if she pleads not guilty.

Heard is up for re-election in August for the District 4 County Commission seat; however, she has not yet filed, according to Martin County Elections Office records.

Former commissioner Scott, of Jupiter Island, also was charged Thursday with two additional criminal misdemeanor counts of violating public records laws. She, too, was booked and released on her own recognizance, according to the Martin County Sheriff's Office.



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Lawsuits are no bargain.

Lawsuit alleges Sarasota city manager broke public records law

Source: Herald Tribune

By: Nicole Rodriguez – Staff Writer

The suit asks a judge to grant an accelerated hearing in the case, and declare that Barwin and the city violated state record retention rules and the Sunshine Law.

SARASOTA — A lawsuit filed Thursday against Sarasota City Manager Tom Barwin and the city alleges that the top administrator's frequent failure to produce city-related discussions from his private Gmail account as part of numerous public records requests broke state open records law and eroded public trust in local government.

The suit, filed by Michael Barfield, a paralegal consultant and president of the Florida American Civil Liberties Union, asks a judge to grant an accelerated hearing in the case, and declare that Barwin and the city violated state record retention rules and the Sunshine Law, which is intended to guarantee that citizens have access to public records and the decision-making of governmental officials. The 23-page suit requests a judge to order Barwin and the city to follow the law, make records on Barwin's personal electronic devices available for inspection, pay Barfield's legal fees and award any other relief the court deems appropriate.



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Perpetuate
Communicate
Formalize



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Thank You!

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Materials by John G. Hubbard & Clifford B. Shepard



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REVISED CHARTER

TOWN OF EATONVILLE, FLORIDA

PREAMBLE

We the people of the historic Town of Eatonville, Florida, the Oldest Incorporated Black Municipality in the United States, under the constitution and laws of the State of Florida, in order to provide the benefits of local government responsive to the will and values of our citizens, do hereby adopt this Charter to define the powers and structure of our government. By this action we enable our government to provide services and meet the needs of the people efficiently; allow fair and equitable participation of all residents in the affairs of the Town; provide for transparency, accountability, and ethics in governance; foster fiscal responsibility; promote prosperity and advance the quality of life; and, preserve our unique history for generations to come.

**ARTICLE I POWERS OF
THE TOWN**

Section 1.01. Powers of the Town.

The Town shall have all powers possible for a Municipality to have under the constitution and Laws of the state of Florida as fully and completely as though they were specifically enumerated in this Charter.

Section 1.02. Construction.

The powers of the Town under this Charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power granted in this article.

Section 1.03. Intergovernmental Relations

The Town may participate by contract or otherwise with any governmental entity of this State or any other State or States or the United States in the performance of any activity which one or more of such entities has the authority to undertake.

Section 1.04. Corporate Boundaries

The corporate boundaries of the Town of Eatonville remain as they exist on the date this amended Charter takes effect, provided that the Town shall have the power to change its boundaries in the manner prescribed by law. A dated description of the boundaries is posted on the Town’s website, is on file at the Town Hall, and is available to the public.

Section 1.05. Form of Government

The Town of Eatonville is a Municipal Corporation with a Mayor-Council form of Government.

ARTICLE II
TOWN COUNCIL

Section 2.01. General Powers and Duties

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

Section 2.02. Eligibility, Terms, and Composition

- (a.) **Eligibility.** Only registered voters of Orange County who have resided within the Town of Eatonville Town limits for twelve consecutive months prior to the date of qualifying shall be eligible to hold the office of Mayor or Council Member.
- (b.) **Terms.** The term of office of the Mayor and Council Members shall be four (4) years elected in accordance with Article V. The terms of all such persons shall commence at the first regularly scheduled Council meeting following the certification of election results by the Canvassing Board. All such elected officials shall hold office until their Successors have been elected and qualified or until their tenure of office has otherwise been terminated in accordance with law.
- (c.) **Composition.** There shall be a Town Council composed of five (5) members, one of whom will qualify for and be designated as Mayor, elected by the voters of the Town, at large, in accordance with the provisions of Article V.

Section 2.03. Mayor; General Duties

The Mayor shall be the Chief Executive Officer of the Town and shall be responsible to the electorate for the Administration of all Town affairs placed in the Mayor’s charge by or under this Charter. The Mayor shall:

- (a) Appoint and suspend or remove all Town employees and appointive Administrative Officers provided for by or under this Charter. Department heads shall be appointed by the Mayor within one hundred twenty (120) days of any vacancy and confirmed by the Town Council. The Mayor may authorize any administrative officer who is subject to the Mayor’s direction and supervision to exercise these powers with respect to subordinates in that officer’s department, office, or agency;
- (b) Direct and supervise the administration of all departments, offices, and agencies of the Town, except as otherwise provided by this charter or law;
- (c) Chair and be a voting member of the Town Council;
- (d) See that all laws, provisions of this Charter and acts of the Town Council, subject to enforcement by the Mayor or by officers subject to the direction and supervision of the Mayor, are faithfully executed;
- (e) Prepare, or have prepared, and submit the annual budget, budget message, and capital program to the Town Council and implement the final budget approved by Council to achieve the goals of the Town;
- (f) Submit to the Town Council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year;

- (g) Make such other reports as the Town Council may require concerning operations;
- (h) Keep the Town Council fully advised as to the financial condition and future needs of the town;
- (i) Encourage and provide staff support for regional and intergovernmental cooperation; and
- (j) Promote partnerships among Council, staff, and citizens in developing public policy and building a sense of community.

Section 2.04. Vice Mayor

A Vice Mayor will be recommended by the Mayor and elected by the Town Council annually from among its members no later than the second regular Council meeting in March. The Vice Mayor will assume the duties of Mayor in the Mayor's absence.

Section 2.05. Compensation; Expenses

The Town Council may determine the annual salary of the Mayor and Council Members by Ordinance, but no Ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election. The Mayor and Council Members shall receive their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.06. Prohibitions

- (a.) **Holding Other Office.** Except where authorized by law, neither the Mayor nor any Council Member shall hold any other elected public office during the term for which the Mayor or Member was elected to the Council. No Council Member shall hold any other Town of Eatonville office or employment during the term for which the Mayor or Member was elected to the Council.

Nothing in this section shall be construed to prohibit the Council from selecting any current or former Council Member to represent the Town on the governing board of any regional or other intergovernmental agency.

- (b.) **Appointments and Removals.** Neither the Town Council nor any of its Members shall in any manner control or demand the appointment or removal of any Town administrative officer or employee whom the Mayor or any subordinate of the Mayor is empowered to appoint, but the Council may express its views and fully and freely discuss with the Mayor anything pertaining to appointment and removal of such officers and employees.
- (c.) **Interference with Administration.** The Council or its Members shall deal with town officers and employees who are subject to the direction and supervision of the Mayor solely through the Mayor, and neither the Council nor its Members shall give orders to any such officer or employee, either publicly or privately.

Section 2.07. Vacancies; Forfeiture of Office; Filling of Vacancies.

- (a) **Vacancies.** The office of the Mayor or a Council Member shall become vacant upon the member's death, resignation, suspension, or removal from office or forfeiture of office in any manner authorized by law.

- (b) **Forfeiture of Office.** The Mayor and Council Members shall forfeit that office if the Mayor or Council member:
- (1) Fails to maintain the residency requirements as set forth in Section 2.02 (a);
 - (2) Violates any express prohibition of this Charter;
 - (3) Is convicted of a crime involving a felony; or
 - (4) Fails to attend four (4) consecutive regular meetings of the Council without being excused by the Council.

(c) **Filling of Vacancies.** Should a vacancy in the office of Town Council occur when there are (60) days or less left in the unexpired term, no appointment shall be made and that vacancy will be filled at the next regular municipal election. Should a vacancy occur when there are more than sixty (60) days left in the unexpired term that vacancy shall be filled by the Town Council within thirty (30) days of the date of the vacancy with any qualified resident so appointed to serve until a successor is elected at the next regular municipal election.

If a vacancy is not filled by the Town Council within thirty (30) days after the vacancy occurs as described above, a special election shall be held within ninety (90) days after such vacancy occurs or as soon thereafter as such election may be held; and the person so elected shall serve the remaining unexpired term of office.

Should a vacancy occur in the office of Mayor, the Vice Mayor will assume the office of Mayor until the next regular Municipal election. If there is time remaining in the term of the Vice Mayor after the election, the Vice Mayor shall return to the Council to fill the remainder of the term.

(d) **Extraordinary Vacancies.** In the event that all council members are removed by death, disability, resignation, or forfeiture of office, or any combination thereof, the governor shall appoint interim Council Members who shall call a special election within not fewer than thirty (30) days or more than sixty (60) days after such appointment. Such election shall be held in the same manner as the elections under this charter. Appointees must meet the all requirements for candidates as provided in this charter.

Section 2.08. Judge of Qualifications

The Town Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in a newspaper of general circulation in the town at least one calendar week in advance of the hearing.

Section 2.10. Procedure

- (a) **Meetings.** The Town Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. **Special meetings** may be held on the call of the Mayor or of two (2) or more Members and, when practicable, upon no less

than twenty-four (24) hours' notice to each Member. **Emergency Meetings:** The Mayor or any two (2) members of the council may convene an emergency council meeting upon reasonable notice of such meeting given to each council member. The first order of business at an emergency council meeting shall be the determination, by affirmative vote of at least three (3) members of the Council that an emergency situation involving health, safety, or public welfare warranting council action exists. Only matters relating to the emergency may be considered at the emergency meeting and any action taken at such meeting must be approved by at least three (3) members of the Council, except for emergency ordinances which shall be adopted in accordance with state law.

- (b) **Rules and Minutes.** The Town Council shall determine its own rules and order of business and shall provide for keeping digital minutes of its proceedings.
- (c) **Quorum.** Three (3) members of the Council shall constitute a quorum. No action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

Section 2.11. Ordinances in General

All ordinances, including emergency ordinances shall be adopted pursuant to Section 166.041, Florida Statutes, as amended. Every adopted ordinance shall become effective as provided in the body of the ordinance.

ARTICLE III
DEPARTMENTS, OFFICES, AND AGENCIES

Section 3.01. General Provisions

- (a) **Creation of Departments.** The Town Council may establish Town departments, offices, or agencies in addition to those created by this charter, and may prescribe the functions of all departments, offices, and agencies. No function assigned by this charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.
- (b) **Direction by Mayor.** All Departments, offices, and agencies under the direction and supervision of the Mayor shall be administered by an officer appointed by and subject to the direction and supervision of the Mayor.
- (c) **Grievance Process.** The Town Council shall establish and maintain a written grievance process for all town employees.

Section 3.02. Town Clerk

The Town Council shall appoint an officer of the town who shall have the title of Town Clerk. The Clerk shall be appointed and may be removed by a simple majority vote of the Council. The Town Clerk shall be the custodian of all Town Council records; shall give notice of Council

meetings to its members and the public; shall keep minutes of its proceedings; and perform such other duties as are assigned by this charter or the Town Council.

Section 3.03. Town Attorney

There shall be a Town Attorney appointed by the Town Council. The Attorney shall be appointed and may be removed by a simple majority vote of the Council; and, shall be a member in good standing of the Florida Bar. The Town Attorney shall serve as chief legal advisor to the Council, the Mayor, and all town departments, offices, and agencies; shall represent the Town in legal proceedings; and shall perform any other duties prescribed by state law, by this charter, or by ordinance.

Section 3.04. Chief Administrative Officer

The Mayor shall appoint a Chief Administrative Officer on the basis of education and experience in the accepted practices of local government management. The Town Council shall confirm the appointment. The Chief Administrative Officer will assist the Mayor in carrying out executive responsibilities and will provide central coordination of administrative functions.

**ARTICLE IV
FINANCIAL MANAGEMENT**

Section 4.01. Fiscal Year

The fiscal year of the Town shall begin on the first day of October and end on the last day of September.

Section 4.02. Submission of Budget

On or before the first day of August of each year, the Mayor shall submit to the Town Council a budget for the ensuing fiscal year and an accompanying message.

Section 4.03. Budget Message.

The Mayor’s budget message shall explain the budget both in fiscal terms and in terms of the work programs, linking those programs to organizational goals and community priorities. It shall outline the proposed financial policies of the Town for the ensuing fiscal year and the impact of those policies on future years. It shall describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town’s debt position, including factors affecting the ability to raise resources through debt issues, and include such other material as the Mayor deems desirable.

Section 4.04. Budget.

The budget shall provide a complete financial plan of all Town funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Mayor deems desirable or the Town Council may require for effective management.

Section 4.05. Town Council Action on Budget

The Town Council shall adopt an annual budget in accordance with all applicable state statutory provisions including but not limited to Sections 166.241, 200.001, 200.065, and 200.068, Florida Statutes, as amended.

Section 4.06 Amendments After Adoption

Budget amendments after adoption of an annual budget shall be processed according to Sections 166.241, 200.065, and 218.503, Florida Statutes, as amended.

Section 4.07. Administration and Fiduciary Oversight of the Budget.

The Town Council shall provide by Ordinance the procedures for administration and fiduciary oversight of the budget.

Section 4.08. Independent Audit.

Pursuant to the provisions of Sections 11.45, 119.07, 163.31801, 166.021, 218.39, and 218.391, Florida Statutes, as amended, the Town Council shall provide for an independent annual audit of all Town accounts and may provide for more frequent audits as it deems necessary.

**ARTICLE V
ELECTIONS**

Section 5.01. Nonpartisan Elections

All qualifications and elections for the offices of Town Council and Mayor shall be conducted on a nonpartisan basis without regard for designation of political party affiliation of any candidate, nominee, or any nomination petition or ballot.

Section 5.02. Town Council Seats

Town council seats are hereby designated as seats 1,2,3,4, and 5 for the purposes of identification. The Mayor shall hold seat 1. Each candidate for the office of council shall declare at the time of qualifications the seat to which such candidate seeks election. No person shall run for more than one council seat in an election. Candidates for Town Council seats shall be elected at large. If more than two candidates qualify for the same seat, the candidate receiving the most votes shall be deemed elected. In the event of a tie vote, such office shall be filled by the drawing of lots among the candidates receiving the same number of votes. Such determination by lot shall be made under the direction of the Town Council in existence prior to the election, no later than seven (7) days after the certification of the election. The candidates shall be notified of the time and place of the drawing of lots and have the right to be present.

Section 5.03. Elections.

Town elections shall be conducted in accordance with the general election laws of the State of Florida, Chapters 97 -106 Florida Statutes, as amended. Regular town elections shall be held on the first Saturday in March of each election year. All elections will be held in even years except for the first election following the adoption of this revised charter. In 2017, seats 4 and 5 will be elected for three (3) terms of office, but beginning with the 2020 election and every four (4) years after that, the terms of office for seats 4 and 5 will be four (4) years. Beginning in 2018, and every four (4) years after that, Council seats 1, 2, and 3 will run for election. If a regular election occurs in the same month a Presidential Preference Primary is conducted, the Town Council may choose to hold the Town election on the same date as the primary.

Section 5.04. Canvassing Board

A town canvassing board shall be established for the purposes of canvassing ballots and election results. The canvassing board shall be composed of the Town Clerk and two (2) citizens who shall be selected by majority vote of the Town Council at the time the election is called.

Section 5.05. Recall

The registered voters of the Town shall have power to recall elected officials of the Town pursuant to Section 100.361, Florida Statutes, as amended.

Section 5.06. Initiative and Citizen Referendum

Initiative. The registered voters of the Town shall have power to propose ordinances to the Town Council and, if the Council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a Town election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes, or salaries of town officers or employees, or ordinances pertaining to comprehensive planning or zoning.

Citizen Referendum. The registered voters of the Town shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council fails to repeal an ordinance so reconsidered, to approve or reject it at a town election, but such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of Town officers or employees, or ordinances pertaining to comprehensive planning or zoning.

(a) Commencement of Proceeding; Petitioners' Committee; Affidavit.

Any five (5) registered voters may commence initiative or citizen referendum proceedings by filing with the Town Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

(b) Petitions.

- (1) **Number of Signatures.** Initiative and citizen referendum petitions must be signed by registered voters of the town equal in number to at least ten percent (10%) of the total number of registered voters as of the last general election.
- (2) **Form and Content.** All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Initiative and citizen referendum petitions shall contain or have attached thereto throughout their circulation, the full text of the ordinance proposed or sought to be reconsidered.
- (3) **Affidavit of Circulator.** Each paper of a petition shall have attached to it when filed, an affidavit executed by the person circulating it stating that he or she personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- (4) **Time for Filing Referendum Petitions.** Referendum petitions must be filed within thirty (30) days after adoption by the Town Council of the ordinance sought to be reconsidered.

(c) Procedure after Filing.

- (1) **Certificate of Clerk; Amendment.** Within twenty (20) days after the petition is filed, the Town Clerk, with the assistance of the Supervisor of Elections, shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners' committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitions' committee files a notice of intention to amend it with the Clerk within two (2) days after receiving the copy of his or her certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of paragraphs (2) and (3) of Section 5.06 (b) above, and within five (5) days after it is filed, the Clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under paragraph (2) of this subsection within the time required, the Clerk shall promptly present his or her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- (2) **Council Review.** If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

- (3) **Court Review; New Petition.** A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

(d) Referendum Petitions; Suspension of Effect of Ordinance.

When a referendum petition is filed with the Town Clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (1) There is a final determination of insufficiency of the petition;
- (2) The petitioners' committee withdraws the petition,;
- (3) The Council repeals the ordinance; or
- (4) Thirty (30) days have elapsed after a vote of the Town on the ordinance.

(e) Actions on Petitions.

- (1) **Action by Council.** When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided in Article II of this Charter or reconsider the referred ordinance by voting its repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within sixty (60) days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters of the Town.
- (2) **Submission to Voters of Proposed or Referred ordinances.** The vote of the Town on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than one year from the date of the final Council vote thereon. If no regular town election is to be held within the period prescribed in this subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as such regular election, except that the Council may in its discretion provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) **Withdrawal of Petitions.** An initiative or referendum petition may be withdrawn at any time prior to the fifteenth day preceding the day scheduled for a vote of the town by filing with the Town Clerk a request for withdrawal signed by at least two-thirds of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(f) Results of Election.

- (1) **Initiative.** If a majority of the voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- (2) **Referendum.** If a majority of the registered voters on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VI
CHARTER AMMENDMENTS

Section 6.01. Amendment

Amendments to this Charter may be framed and proposed pursuant to Section 166.031 Florida Statutes, as amended.

Section 6.02. Charter Review

There shall be a periodic review of this Charter by a charter review advisory committee appointed by the Town Council in 2024 and every eight (8) years thereafter.

ARTICLE VII
TRANSITION AND SEVERABILITY

Section 7.01. General Law

All Town Ordinances, Resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

Section 7.02. Severability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected.