

By Representative Sorensen

1                                   A bill to be entitled  
2           An act relating to Monroe County; creating the  
3           City of Marathon; providing legislative intent;  
4           providing municipal boundaries and municipal  
5           powers; providing a council-manager form of  
6           government; providing for election of a city  
7           council; providing for membership,  
8           qualifications, terms, powers, and duties of  
9           its members, including the mayor; providing for  
10          a vice mayor; providing for payment of  
11          expenses; providing general powers and duties;  
12          providing circumstances resulting in vacancy in  
13          office; providing grounds for forfeiture and  
14          suspension; providing for filling of vacancies;  
15          providing for meetings; providing for keeping  
16          of records; providing for adoption,  
17          distribution, and recording of technical codes;  
18          providing a limitation upon employment of  
19          council members; providing that certain  
20          interference with city employees shall  
21          constitute malfeasance in office; providing  
22          penalties; establishing the fiscal year;  
23          providing for adoption of annual budget and  
24          appropriation; providing for appropriations  
25          amendments; providing limitations; providing  
26          for appointment of charter officers, including  
27          a city manager and city attorney; providing for  
28          removal, compensation, and filling of  
29          vacancies; providing qualifications, powers,  
30          and duties; providing for nonpartisan elections  
31          and for matters relative thereto; providing for

1 recall; providing for initiatives and  
2 referenda; providing the city a transition  
3 schedule and procedures for first election;  
4 providing for first-year expenses; providing  
5 for adoption of transitional ordinances,  
6 resolutions, comprehensive plan, and local  
7 development regulations; providing for  
8 accelerated entitlement to state shared  
9 revenues; providing for gas tax revenue;  
10 providing for transition agreement between  
11 Monroe County and the City of Marathon;  
12 providing land descriptions of the city;  
13 providing for future amendments of the charter;  
14 providing for standards of conduct in office;  
15 providing for severability; providing for a  
16 referendum approval; providing effective dates.

17

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

19

20 Section 1. Short title.--This act, together with any  
21 future amendments thereto, shall be known and may be cited as  
22 the "City of Marathon Charter," hereinafter referred to as  
23 "the charter."

24

25 Section 2. Legislative intent.--The Legislature finds  
26 and declares that:

27

28 (1) The greater Marathon area in Monroe County  
29 includes a compact and contiguous community of approximately  
30 12,000 residents susceptible to urban services, and  
31 constitutes a community amenable to separate municipal  
government.

31

1       (2) It is in the best interests of the public health,  
2 safety, and welfare of the residents of the Marathon area to  
3 form a separate municipality for the Marathon area with all  
4 the powers and authority necessary to provide adequate and  
5 efficient municipal services to its residents.

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

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

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

29       Section 5. City council.--

30       (1) CITY COUNCIL; COMPOSITION; QUALIFICATIONS OF  
31 COUNCIL MEMBERS.--

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

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

9       (c) To qualify for office:

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

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

21       (2) TERM OF OFFICE.--The term of office for council  
22 members shall be 2 years. Each council member shall remain in  
23 office until a successor is elected and assumes the duties of  
24 the position, except as otherwise provided herein. No council  
25 member shall serve more than three consecutive terms of  
26 office.

27       (3) THE MAYOR; POWERS AND DUTIES.--

28       (a) The city council, at its first regular meeting  
29 after the fourth Tuesday of each February, shall elect from  
30 its membership a mayor and a vice mayor who shall serve at the  
31 pleasure of the city council and who shall have the same

1 legislative powers and duties as any other council member,  
2 except as provided in paragraph (b).

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

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

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

28 (6) GENERAL POWERS AND DUTIES OF COUNCIL.--Except as  
29 otherwise prescribed herein or provided by law, legislative  
30 and police powers of the city shall be vested in the council.  
31 The council shall provide for the exercise of its powers and

1 for the performance of all duties and obligations imposed on  
2 the city by law.

3 (7) VACANCIES; FORFEITURE OF OFFICE; SUSPENSION;  
4 FILLING OF VACANCIES.--

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

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

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

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

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

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

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

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

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

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

18       (d) Filling of vacancies.--

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

23           2. If any vacancy occurs in the office of any council  
24 member and the remainder of the unexpired term is less than 81  
25 days, the remaining council members shall, within 30 days  
26 following the occurrence of such vacancy, by majority vote,  
27 appoint a person to fill the vacancy for the remainder of the  
28 unexpired term. If, however, the remainder of the unexpired  
29 term is 81 days or more, the remaining council members shall,  
30 within 30 days following the occurrence of such vacancy, by  
31

1 majority vote, appoint a person to fill the vacancy until the  
2 next regularly scheduled city election.

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

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

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

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

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

28 (9) CITY RECORDS.--The council shall, in a properly  
29 indexed book kept for the purpose, provide for the  
30 authentication and recording in full of all minutes of  
31 meetings, and all ordinances and resolutions adopted by the



1 council, and the same shall at all times be a public record.  
2 The council shall further maintain a current codification of  
3 all ordinances. Such codification shall be printed and shall  
4 be made available for distribution to the public on a  
5 continuing basis. All ordinances or resolutions of the council  
6 shall be signed by the mayor, or vice mayor in the absence or  
7 disability of the mayor, or by the acting mayor in the absence  
8 or disability of both the mayor and the vice mayor, and  
9 attested to by the city clerk.

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

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

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

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

28 (12) NONINTERFERENCE BY CITY COUNCIL.--Except for the  
29 purposes of inquiry and information, the council and its  
30 members, including committees thereof, are expressly  
31 prohibited from interfering with the performance of the duties

1 of any employee of the city government who is under the direct  
2 or indirect supervision of the city manager or city attorney.  
3 Such action shall be malfeasance within the meaning of s.  
4 112.51, Florida Statutes, and shall be punishable as provided  
5 in s. 112.317, Florida Statutes.

6 Section 6. Budget and appropriations.--

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

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

16 (3) APPROPRIATION AMENDMENTS DURING THE FISCAL YEAR.--

17 (a) Supplemental appropriations.--If, during the  
18 fiscal year, revenues in excess of those estimated in the  
19 budget are available for appropriation, the council by  
20 resolution may make supplemental appropriations for the year  
21 in an amount not to exceed such excess.

22 (b) Reduction of appropriations.--If, at any time  
23 during the fiscal year, it appears probable to the city  
24 manager that the revenues available will be insufficient to  
25 meet the amount appropriated, the city manager shall report  
26 same to the council without delay, indicating the estimated  
27 amount of the deficit, any remedial action taken, and  
28 recommendations as to any other steps that should be taken.  
29 The council shall then take such further action as it deems  
30 necessary to prevent or minimize any deficit and, for that  
31

1 purpose, the council may by resolution reduce one or more  
2 appropriations accordingly.

3 (c) Limitations; effective date.--No appropriation for  
4 debt service may be reduced or transferred, and no  
5 appropriation may be reduced below any amount required by law  
6 to be appropriated, or by more than the unencumbered balance  
7 thereof. Other provisions of law to the contrary  
8 notwithstanding, the supplemental and emergency appropriations  
9 and reduction or transfer of appropriations authorized by this  
10 section may be made effective immediately upon adoption.

11 Section 7. Charter officers.--

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

16 (2) APPOINTMENT; REMOVAL; COMPENSATION; FILLING OF  
17 VACANCIES.--

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

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

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

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

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

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

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

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

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

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

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

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

28       5. Attend meetings of the city council.

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

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

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

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

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

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

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

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

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

24           (b) Powers and duties.--The city attorney:

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

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

30           3. Shall attend city council meetings unless excused  
31 by the city council, and shall perform such professional

1 duties as may be required by law or by the council in  
2 furtherance of the law.

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

7 Section 8. Elections.--

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

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

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

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

28 (5) SCHEDULE FOR OTHER ELECTIONS.--

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

31

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

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

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

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

25       (7) CITY CANVASSING BOARD.--The city canvassing board  
26 shall be composed of those members of the city council who are  
27 not candidates for reelection and the city clerk, who shall  
28 act as chairperson. At the close of the polls of any city  
29 election, or as soon thereafter as practicable, the canvassing  
30 board shall meet at a time and place designated by the  
31 chairperson and shall proceed to publicly canvass the vote as

1 shown by the returns then on file in the office of the city  
2 clerk, and then shall publicly canvass the absentee elector  
3 ballots. The canvassing board shall prepare and sign a  
4 certificate containing the total number of votes cast for each  
5 candidate or other measure voted upon. The certificate shall  
6 be placed on file with the city clerk.

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

11 (9) INITIATIVE AND REFERENDUM.--

12 (a) Power to initiate and reconsider ordinances.--

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

21 2. Referendum.--

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

30 b. The electors of the city shall have the power to  
31 require reconsideration by the city council of any adopted



1 ordinance and, if the city council fails to repeal an  
2 ordinance so reconsidered, to approve or reject it at a city  
3 election, provided that such power shall not extend to the  
4 annual budget or capital program or any ordinance  
5 appropriating money, levying taxes, or setting salaries of  
6 city officers or employees.

7 c. Notwithstanding anything in sub-subparagraph 2.b.  
8 to the contrary, the referendum power shall extend to any  
9 ordinance levying ad valorem taxes, provided that the  
10 ordinance increases the total city tax rate above 5 mills and  
11 that all petitions with respect to the referendum are filed  
12 within 30 days after the date of adoption of the ordinance.

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

25 (c) Petitions.--

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

30 2. All papers of a petition shall be assembled as one  
31 instrument of filing. Each signature shall be executed in ink

1 and shall be followed by the printed name and address of the  
2 person signing. Petitions shall contain or have attached  
3 thereto throughout their circulation the full text of the  
4 ordinance proposed or sought to be reconsidered.

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

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

22 (d) Procedure for filing.--

23 1. Within 20 days after an initiative petition or a  
24 referendum petition is filed, the city clerk shall complete a  
25 certificate as to its sufficiency, specifying, if it is  
26 insufficient, the particulars wherein it is defective, and  
27 shall promptly send a copy of the certificate to the  
28 petitioner's committee by registered mail. Grounds for  
29 insufficiency are only those specifics in subparagraph (c)3.  
30 that are not met. A petition certified insufficient for lack  
31 of the required number of valid signatures may be amended once

1 if the petitioner's committee files a notice of intent to  
2 amend it with the designated official within 2 business days  
3 after receiving the copy of the certificate and files a  
4 supplementary petition upon additional papers within 10 days  
5 after receiving the copy of such certificate. Such  
6 supplementary petition shall comply with original petition  
7 requirements and, within 5 days after it is filed, the city  
8 clerk shall complete a certificate as to the sufficiency of  
9 the petition as amended and promptly send a copy of such  
10 certificate to the petitioner's committee by registered mail.  
11 If a petition or an amended petition is certified sufficient,  
12 or if a petition or amended petition is certified insufficient  
13 and the petitioner's committee does not elect to amend or  
14 request the city council review under subparagraph 2. within  
15 the time required, the city clerk shall promptly present a  
16 certificate to the city council and such certificate shall  
17 then be a final determination as to the sufficiency of the  
18 petition.

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

29 (e) Action on petitions.--

30 1. Action by city council.--When an initiative or  
31 referendum petition has been determined sufficient, the city

1 council shall promptly consider the proposed initiative  
2 ordinance, or reconsider the referendum ordinance by voting  
3 its repeal. The repeal of an ordinance relating to the levy of  
4 ad valorem taxes shall be by ordinance. If the city council  
5 fails to adopt a proposed initiative ordinance without any  
6 change in substance within 45 days or fails to repeal the  
7 referendum ordinance within 30 days or, in the case of a  
8 referendum authorized pursuant to sub-subparagraph (a)2.c.,  
9 within 5 days after the date on which the petition is  
10 determined to be sufficient, it shall submit the proposed  
11 initiative or referendum ordinance to the electors of the  
12 city. If the city council fails to act on a proposed  
13 initiative ordinance or a referendum ordinance within the time  
14 period specified, the city council shall be deemed to have  
15 failed to adopt the proposed initiative ordinance, or failed  
16 to repeal the referendum ordinance on the last day that the  
17 city council was authorized to act on such matter.

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

30 3. Withdrawal of petitions.--An initiative or  
31 referendum petition may be withdrawn at any time prior to the

1 15th day preceding the day scheduled for a vote of the city by  
2 filing with the city clerk a request for withdrawal signed by  
3 at least eight members of the petitioner's committee. Upon the  
4 filing of such request, the petition shall have no further  
5 force or effect and all proceedings thereon shall be  
6 terminated.

7 (f) Results of election.--

8 1. If a majority of the qualified electors voting on a  
9 proposed initiative ordinance vote in its favor, it shall be  
10 considered adopted upon certification of the election results.  
11 If conflicting ordinances are approved at the same election,  
12 the one receiving the greatest number of affirmative votes  
13 shall prevail to the extent of such conflict.

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

17 Section 9. Transition schedule.--

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

26 (2) INITIAL ELECTION OF COUNCIL MEMBERS.--

27 (a) Dates.--Following the adoption of this charter in  
28 accordance with subsection (1), the Monroe County Commission  
29 shall call a special election for the election of the five  
30 city council members to be held on February 8, 2000. In the  
31 event no candidate for an office receives a majority of the

1 votes cast for said office, then a runoff election shall be  
2 held on February 22, 2000.

3 (b) Qualifying period.--Between noon on December 20,  
4 1999, and noon on January 11, 2000, any individual who wishes  
5 to run for one of the five initial seats on the council shall  
6 qualify as a candidate with the Monroe County Supervisor of  
7 Elections in accordance with the provisions of this charter  
8 and general law.

9 (c) Certification of election results.--For the  
10 initial election, the Monroe County Commission shall appoint a  
11 canvassing board which shall certify the results of the  
12 election.

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

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

24 (3) CREATION AND ESTABLISHMENT OF CITY.--For the  
25 purpose of compliance with s. 200.066, Florida Statutes,  
26 relating to assessment and collection of ad valorem taxes, the  
27 city is hereby created and established effective November 30,  
28 1999. Notwithstanding anything to the contrary contained  
29 herein, the city, although created and established as of  
30 November 30, 1999, shall not be operational until February 24,  
31 2000.

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

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

16       (6) TRANSITIONAL COMPREHENSIVE PLAN AND LAND  
17 DEVELOPMENT REGULATIONS.--

18       (a) Until such time as the city adopts a comprehensive  
19 plan, the applicable provisions of the Comprehensive Plan of  
20 Monroe County, as the same exists on the day the city  
21 commences corporate existence, shall remain in effect as the  
22 city's transitional comprehensive plan. However, all planning  
23 functions, duties, and authority shall thereafter be vested in  
24 the City Council of Marathon which shall be deemed the local  
25 planning agency until and unless the council establishes a  
26 separate local planning agency. Prior to the adoption of a  
27 city comprehensive master plan, any amendment to any zoning as  
28 established in the current county land use plan shall only be  
29 by an ordinance adopted by the affirmative vote of not less  
30 than four members of the council. Any increase in the  
31 residential density or intensity, as established in the

1 current county land use plan which is adopted by the city  
2 shall only be by an ordinance adopted by the affirmative vote  
3 of not less than four members of the council.

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

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

17 (7) STATE SHARED REVENUES.--The City of Marathon shall  
18 be entitled to participate in all shared revenue programs of  
19 the State of Florida effective immediately on the date of  
20 incorporation. The provisions of s. 218.23(1), Florida  
21 Statutes, shall be waived for the purpose of eligibility to  
22 receive revenue sharing funds from the date of incorporation  
23 through the state fiscal year 1999-2000. Section 218.26(3),  
24 Florida Statutes, is waived for the state fiscal year  
25 1999-2000, and the apportionment factors for the  
26 municipalities and counties shall be recalculated pursuant to  
27 s. 218.245, Florida Statutes. Initial population estimates for  
28 calculating eligibility for shared revenues shall be  
29 determined by the University of Florida Bureau of Economic and  
30 Business Research. Should the bureau be unable to provide an

31



1 appropriate population estimate, the Monroe County Planning  
2 Division estimate shall be utilized.

3 (8) GAS TAX REVENUES.--Notwithstanding the  
4 requirements of s. 336.025, Florida Statutes, to the contrary,  
5 the City of Marathon shall be entitled to receive local option  
6 gas tax revenues beginning October 1, 1999.

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

24 Section 11. General provisions.--

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

1           (2) STANDARDS OF CONDUCT.--All elected officials and  
2 employees of the city shall be subject to the standards of  
3 conduct for public officers and employees set by general law.  
4 In addition, the city council shall, no later than 6 months  
5 from the effective date of incorporation, establish by  
6 ordinance a code of ethics for officials and employees of the  
7 city which may be supplemental to general law, but in no case  
8 may such an ordinance diminish the provisions of general law.  
9 The intent of this provision of the charter is to require more  
10 stringent standards than those provided under general law.

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

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

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