

PART I
CHARTER*

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ARTICLE I. POWERS OF THE TOWN

Sec. 1.01. Creation of government.

There is hereby created the municipal corporation under the name of Indialantic (hereafter to be known as the Town) in the County of Brevard, State of Florida, which Town shall have all powers possible for a town to have under the Constitution and laws of the State of Florida as fully and complete[ly] as is specifically enumerated in this Charter in addition to any powers specifically so enumerated.

State law reference--General municipal powers, Fla. Const., Art. VIII, 2(b); F.S. 166.021.

Sec. 1.02. Town boundaries.

A description of the Town boundaries shall be on file in the Town Hall.

Sec. 1.03. Structure of the town.

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

***Editor's note--**The Town of Indialantic was originally incorporated under general law in 1952. It was granted its first charter by Laws of Fla., Ch. 57-1407, which was subsequently amended by Laws of Fla., Chs. 59-1374, 63-1413 and 69-1159. Said charter was replaced by the present charter, which was approved at an election held Nov. 5, 1974, in accordance with Ord. No. 168, submitting said charter to referendum. This Part I contains that charter, as from time to time amended. Amendments are cited in parentheses following the provisions amended, with such citations containing the number and date of the ordinance submitting the amendment to referendum and the date of the referendum. The absence of such a citation indicates that the provision has not been amended and is as originally contained in the 1974 charter.

The editors have added words and phrases in brackets [] where desirable for clarity.

State law reference--Municipal charters generally, F.S. 166.031.

The provisions of this Charter are promulgated with reasonable consideration to the predominantly residential character of the Town, with all other uses of land either incidental and convenient thereto, or, if existing as a result of extraneous factors, being secondary in nature.

Sec. 1.04. Inter-governmental relations.

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more states or agencies thereof, other counties or municipalities, or the United States or agencies thereof, to the fullest extent permitted by law.

State law reference--Intergovernmental programs generally, F.S. Ch. 163

ARTICLE II. TOWN COUNCIL

Sec. 2.01. General powers and duties.

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

Sec. 2.02. Composition and qualifications.

(1) The Council shall consist of five (5) members including the Mayor, elected by the qualified voters of the Town at large as hereinafter provided.

(2) Members of the Town Council shall have been residents of the Town for at least one (1) year prior to the date of qualifying for office and shall have the qualifications of a Town elector. (Res. No. 18-78, 11-21-78)

Editor's note--The resolution cited following subsection (2) above amended said subsection to delete a requirement that councilmen be freeholders. Said resolution was enacted pursuant to F.S. 166.031(5), since the provision had been judicially construed to be contrary to the U.S. Constitution.

(3) The office of a Council member shall be forfeited whenever the member ceases to possess the foregoing qualifications, when a member is convicted of a felony or a misdemeanor involving moral turpitude, or when a member accepts any other public elective office, or by the absence of a member for three (3) consecutive regular meetings unless excused by the Council.

(4) The town official specified by Town Ordinance for certification of candidacy shall certify a candidate for election to a Council seat who has met the requirements of this Charter, the Town Ordinances, and applicable Florida Statutes to qualify for a Council seat. Certification shall be made to the Town Council. To qualify to run for a Council seat a candidate must, not less than seventy-four (74) nor more than eighty-eight (88) days prior to the date of the election, present to the certifying official: a petition signed by ten (10) currently qualified Town electors; payment of the filing fee as determined by Town Ordinance; and a sworn statement of his or her name, address, and residency within the Town for at least one (1) year prior to the date of qualifying for office. In the event that the seventy-fourth (74th) day for the close of qualifying to run for Mayor or Town Council falls on a Saturday, Sunday, or holiday, such as Labor Day, qualifying shall end at the close of business on the Friday prior to the seventy-fourth (74th) day before the date of the election. (Ord. 94-18, 2, 9-20-94; Ref. 11-8-94; Ord. 06-08, 1, 6-20-06; Ord. 08-10, 1, 7-15-08)

(5) The Town Council shall annually select one of its members, other than the Mayor, to serve as Deputy Mayor. The Deputy Mayor shall act in the absence of the Mayor or, if the position of Mayor is vacated, until the next municipal election, at which time a new Mayor will be elected. (Ord. No. 87-10, 1, 6-16-87, Ref. 11-3-87)

Sec. 2.03. Term of office [; holding other offices].

(1) Council members, including the Mayor, shall take office at the first regular Council meeting following every municipal election or runoff as hereinafter provided. Except as provided in Section 2.05 hereinbelow, they shall hold office for a term of two (2) years or until their successors are elected and qualify.

(2) No member of the Town Council shall hold any other Town office or Town employment, including Volunteer Fireman or Auxiliary Police, during the term for which he was elected. (Ord. No. 89-12, 2, 5-16-89, Ref. 11-7-89)

Sec. 2.04. Compensation.

Any salary of the Mayor and the Council members, together with the manner of payment and the effective date thereof, shall be established by Ordinance. No increase in salary shall become effective before the next Town election. The Town Council may provide that members shall receive their actual and necessary expenses incurred in the performance of their duties.

State law reference--Traveling and per diem expenses for public officers, including municipal personnel, F.S. 112.061.

Sec. 2.05. Mayor.

The Mayor shall serve for a term of two (2) years, except that the Mayor elected in 1989 shall serve for a term of one (1) year only, in order to provide that commencing in the year 1990, mayoral elections shall be held in even-numbered years. The Mayor shall be a voting member of the Council, the presiding officer of the Town Council and the titular head of the Town. The Mayor is recognized as head of the Town government for ceremonial purposes, for the purposes of service of civil process and for purposes of military law. The Mayor shall execute all instruments to which the Town is a party as the Town Council may direct, unless otherwise provided by this Charter by law. (Ord. No. 243, 9-5-78, Ref. 11-7-78; Ord. No. 89-12, 3, 5-16-89, Ref. 11-7-89)

Sec. 2.06. Vacancies on the council.

Any vacancy in the office of Mayor or that of any other Council member may, and if it has an unexpired term of more than ninety (90) days shall, be filled by the Town Council within sixty (60) days from the date on which the vacancy occurred, and a successor for the balance (if any) of the unexpired term on the date of the regular Town election next following the occurrence of the vacancy shall then be elected for the balance of such term. (Ord. No. 243, 9-5-78, Ref. 11-7-78)

Sec. 2.07. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and for such purposes shall have the power to subpoena witnesses and require the production of evidence, but the decision of the Council in any such case shall be subject to review by the courts.

Sec. 2.08. Council meetings.

(1) All meetings of the Council shall be open to the public.

(2) The Council shall meet regularly at least once each month, at such times and places as it shall prescribe by ordinance. The place, day of [the] week, week of the month, and the time so prescribed shall be the same for each such regular meeting, unless notice of a different place, date, or time be posted in the Town Hall and published at least ten (10) days in advance in at least one (1) newspaper of general circulation in the Town.

(3) Special meetings may be called by the Council at any regular or special meeting, or by such number of Council members, and with such notice to each, as the Council shall prescribe by ordinance. Each such special meeting shall be held at a place authorized for regular Council meetings, and shall be limited to the subjects specified in the call for it. Except if called at a regular or special meeting, no such special meeting shall be held unless notice thereof be posted in the Town Hall and published at least twenty-four (24) hours in advance in at least one (1) newspaper of general circulation in the Town.

(4) The Council shall prescribe by Ordinance for determination of emergency meetings. Action at emergency meetings must be ratified at the next regularly scheduled meeting. (Ord. No. 243, 9-5-78, Ref. 11-7-78)

Sec. 2.09. Ordinances and resolutions.

All Ordinances and Resolutions shall be adopted and enacted in accordance with the laws of the State of Florida.

State law reference--Ordinances and resolutions generally, F.S. 166.041.

Sec. 2.10. Records as evidence.

It shall be the duty of the Town Clerk to keep a record of all ordinances and resolutions adopted by the Town Council in a permanent book kept for that purpose. A copy of an ordinance therefrom certified by the Town Clerk under the seal of the Town shall be taken and considered in all courts of the State of Florida as prima facie evidence that such ordinance was duly passed and published as required by law. (Ord. No. 00-09, 2, 9-26-00, Ref. 11-7-00)

State law reference--Judicial notice of municipal ordinances, Fla. R. Jud. Pro. 2.110(d).

Sec. 2.11. Codes of technical regulations.

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. Adopting ordinances shall be enacted as herein provided for ordinances generally. Any adopted code of technical regulation shall be made available to the public as the Council may provide.

ARTICLE III. TOWN MANAGER**Sec. 3.01. Appointment; qualification; compensation [; removal].**

The Council shall appoint a Town Manager who is a United States Citizen, on the basis of his executive and administrative qualifications, and shall fix his compensation. The Town Manager may be removed by a majority vote of the entire Council, without the necessity of showing cause and without the necessity of affording notice and a hearing to the Town Manager, as the Town Manager is the Chief Administrative Officer of the Town and must be directly responsible to the Council, and the Council must have an effective and speedy remedy in dealing with the issue of removal. (Ord. No. 243, 9-5-78, Ref. 11-7-78)

Sec. 3.02. Acting town manager.

The Town Manager shall designate by letter to the Town Council the Town Clerk, or another department head, of the Town as an Acting Town Manager to perform the duties of Town Manager during temporary absence or disability. If the Town Manager fails to make such a designation, or if the Council disapproves the Town Manager's designation, the Council may by Resolution appoint another Town employee or official to serve until the Manager returns or the disability ceases. In any case, the Acting Town Manager shall be qualified as Administrative Officer of the Town. (Ord. 09-04, 2, 1-20-09, Ref. 11-3-09)

Sec. 3.03. Powers and duties of town manager.

The Town Manager shall be the Chief Administrative Officer of the Town and shall be responsible to the Council for all Town affairs placed in his charge by or under the Charter. The Town Manager shall have the following powers and duties:

- (1) Appoint, and when he deems it necessary for the good of the Town, suspend or remove, any Town employee except those appointed by the Town Council. He may authorize the head of any department under his direction and supervision to exercise such powers within the department.
- (2) Fix the compensation of Town officers and employees within the pay schedules established by the Town Council, except for those persons appointed by the Council.
- (3) Direct and supervise the administration of all Town departments, officers and agencies, except as otherwise provided in this Charter or by law.

- (4) Attend meetings of the Town Council and have a right to enter in discussions, but may not vote.
- (5) See that all the laws, provisions of this Charter and acts of The Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (6) Prepare and submit the annual budget to the Council and make other reports concerning the operation of the Town as the Council may require.
- (7) Submit to the Council a complete report on the finances and administrative activities of the Town at the end of each fiscal year.
- (8) Keep the Council informed on the financial condition and future needs of the Town and make such recommendations to the Council concerning the affairs of the Town as he deems desirable.
- (9) Endorse all instruments in writing in which the Town is interested, signify the acknowledgment of the substance therein as he deems appropriate, and execute contracts on behalf of the Town unless the Council shall otherwise provide.
- (10) Perform such other duties as are specified in this Charter or as may be required by the Council.

ARTICLE IV. ADMINISTRATIVE UNITS

Sec. 4.01. General provisions.

(1) The Council, by ordinance, may establish and prescribe the composition and functions of Town departments, agencies and offices in addition to those created by this Charter. In the same manner, units so created may be abolished or consolidated, or one or more functions of units may be abolished or consolidated, or one or more functions of units may be discontinued, reassigned or provided by contract, or functions may be added.

(2) All Town units under the direction and supervision of the Town Manager may be administered by an officer appointed by the Town Manager with the approval of the Council and shall be subject to the direction and supervision of the Town Manager.

(3) With the consent of the Council, the Town Manager may serve as head of one or more such departments or units or may appoint one person as the head of two (2) or more of them.

Sec. 4.02. Personnel policy and system.

All appointments and promotions of officers and employees shall be made solely on the basis of merit and fitness as demonstrated by examination or other evidence of competence. All compensations paid to officers and employees of the Town shall conform to the pay plan approved by the Council.

Sec. 4.03. Professional services; contractual employees; consultants and persons employed for less than full time.

Professional services may be procured through contractual arrangements on either a regular or as needed schedule with qualified firms or individuals and persons may be employed in a part-time basis by the Town Manager within policies approved by Council.

State law reference--Acquisition of professional services, F.S. 287.055.

Sec. 4.04. Advisory boards and committees.

The Council may establish advisory boards and committees to make recommendations concerning beautifications, economic developments, parks, recreation and other areas as the Council deems advisable. Members shall be residents of the Town. (Ord. No. 243, 9-5-78, Ref. 11-7-78)

Sec. 4.05. Civil service system.

The Town Council may create a civil service system and a civil service board, which shall operate in accordance with rules and regulations, as created and modified from time to time by the Town Council. The Town Council may from time to time revise the civil service system and board. Notwithstanding Section 3.03(1) of this Charter, as part of the civil service system, the Town Council may provide that decisions of the Town Manager, or said Manager's designee, relating to the appointment, suspension, or removal of employees may be appealed to the civil service board for final determination. After consultation with the Town Manager, the Town Council shall from time to time provide for rules and regulations of any civil service system created. (Ord. No. 92-15, 2, 9-8-92; Ord. No. 00-10, 2, 9-26-00, Ref. 11-7-00)

Sec. 4.06. Office of town clerk.

There shall be a town clerk, who shall be appointed by and serve under the administrative direction of the town manager. The clerk shall attend all town council meetings unless excused by the town manager or the town council; shall keep the journal of its proceedings; shall authenticate by signature and record in full in a book to be kept for that purpose all ordinances and resolutions. The clerk shall attest all contracts, bonds, and other instruments, required by law, ordinance, or resolution, to be attested and shall perform such other duties required by this charter or ordinance, or as may be assigned by the town manager. The town clerk may appoint deputies to carry out the requirements of this office. (Ord. No. 00-09, 3, 9-26-00, Ref. 11-7-00)

ARTICLE V. FINANCIAL PROCEDURES

Sec. 5.01. Fiscal year.

The Fiscal Year for Town government shall conform to the Florida Statutes.

State law reference--Fiscal year established, F.S. 166.241, 218.33.

Sec. 5.02. Preparation of budget.

The Town Manager shall have the responsibility for preparing a proposed budget, and submitting it to the Town Council.

Sec. 5.03. Public hearing on the budget.

The Town Council shall hold a public hearing on the proposed budget at a regular Council meeting prior to the start of the Fiscal Year at such time as the Council may direct. At least two (2) weeks advance public notice will be provided prior to this meeting. Interested parties shall have the opportunity to be heard for or against the budget or any part thereof. The proposed budget or a budget summary shall be posted on the Town bulletin board at least one week prior to the meeting.

Sec. 5.04. Adoption of the budget.

After the public hearing, the Council shall adopt by resolution by vote of at least a majority of the entire Council membership a final budget for the town. In adopting the final budget, the Council may amend the proposed budget by adding, increasing, deleting, or decreasing any programs or amounts, other than expenditures required by law or for debt service. Total proposed expenditures in the final budget shall not exceed total anticipated revenues and capital savings.

State law reference--Appropriations not to exceed revenues, F.S. 166.241(3).

Sec. 5.05. Effect of final budget and effective date.

From the effective date of the final budget, the amounts stated therein as proposed expenditures shall be and become appropriated to the designated purposes and objects. The amounts stated therein as amounts to be raised by taxes shall constitute determinations of the amount of tax levies for Town government purposes for the Fiscal Year. Taxes so levied shall be certified by the Town Manager upon adoption of the final budget. The Manager shall make available copies of the final budget to Town officers and interested persons.

The final budget shall be adopted prior to the start of the budget Fiscal Year.

Sec. 5.06. Tax authority.

The Town Council shall have full power and authority to levy taxes upon all property, privileges, and professions which are taxable in accordance with the laws of the State.

State law reference--Taxation generally, F.S. 166.201 et seq.; occupational license taxes, F.S. Ch. 205.

Sec. 5.07. Tax assessment and collection.

The Council is authorized to provide by ordinance for the assessment or collection, or both, of Town ad valorem taxes by the Brevard County Tax Collector and Assessor.

State law reference--Municipal ad valorem tax assessments and collections are made a county function by F.S. 193.116.

Sec. 5.08. Special assessments.

The Council is authorized to provide improvements, and to levy and collect special assessments against the property benefited, as prescribed by Florida Statutes.

State law reference--Local improvements and special assessments therefor, F.S. Ch. 170.

Sec. 5.09. Public monies.

All public monies, excepting pension funds, shall be deposited in the name of the Town in such qualified public depositories as defined by and designated pursuant to Chapter 280, Florida Statutes, funds, investments, or accounts as designated by the Town Council; provided, that all public monies shall be deposited or invested in a manner not inconsistent with Florida law. All public monies shall be disbursed in such a manner so that a written record shall be created and maintained pursuant to standards adopted by the State of Florida Auditor General (or said Auditor's designated successor as provided by law), and if no standards shall have been adopted by the Auditor General, then said written records of disbursal shall be created and maintained pursuant to generally accepted accounting standards as recommended by the Town's auditors and adopted by the Town. Disbursals of other than pension funds shall be signed by the Town Manager or his assistant and a councilmember, or shall be issued pursuant to a writing signed by the Town Manager or his assistant and a councilmember.

Any person performing any duties in which he collects, receives, or handles any public monies must qualify under a blanket bond.

(Ord. 08-06, 1, 3-18-08; Ref. 11-4-08)

Sec. 5.10. Franchises.

Franchises shall be granted as prescribed by ordinance.

State law reference--Franchises authorized and limited, F.S. 180.14.

ARTICLE VI. REVENUE DEFICIENCIES FINANCING AND LIMITATIONS*

Sec. 6.01. Accounts.

All monies received by the Town from any source shall be deposited to appropriate Town accounts and entered in the Town ledger as funds received with appropriate accounting for each expenditure. Any monies received by the Town for specific purposes from donations or fund raising activities shall be accounted for in appropriate escrow accounts established for those specific purposes.

Sec. 6.02. Deficiencies of revenues.

When necessary to supply temporary deficiencies of revenue, the Town may obtain loans to meet the current obligations to an amount at which at no time will exceed one-fourth of one percent of the assessed value of taxable property within the Town, based on the most recent tax assessment preceding such loan or loans, with no such loan being for a longer period of time than one year, with interest thereon to be not in excess of the prevailing interest rate to be paid as stipulated by terms of the loan. The whole or any part of such loan may be extended as deemed necessary until fully paid but every such extension shall be for a period not exceeding one year.

State law reference -- Maximum rate of interest on municipal obligations, F.S. 215.685.

Sec. 6.03. Borrowing; bond issues

- (a) As used in this section 6.03, the following terms shall be defined as set forth below.
- (1) "Instrument of indebtedness" shall include any note, bond, covenant to budget, or other instrument evidencing the borrowing of funds by the Town and which may pledge sources of Town revenues.
 - (2) "Budget" shall include revenue amounts to the Town's general fund.

(b) Except as otherwise permitted in this Charter, no instrument of indebtedness shall be issued or made by the Town without approval by a majority vote of the electors voting at a Town election, if the amount of said instrument of indebtedness, individually or in combination with all other then outstanding instruments of indebtedness shall exceed ten percent (10%) of the Town's then existing budget.

(c) Exemptions. Any issuance of an instrument of indebtedness made under the following conditions shall be exempt from the provisions of sub-section (b) above and shall not be required to be approved by the Town electorate:

- (1) Refinancing or refunding of any bonded or other issue of indebtedness, as determined by the Town Council to be made for the purpose of obtaining financial terms more advantageous to the Town or for compliance with any federal or state law.
- (2) The issuance of any instrument of indebtedness when made in response to, or for the purpose of response to, or for repair or reconstruction of infrastructure damaged by a disaster or emergency, including but not limited to an act of war, and Act of God, or weather induced calamity such as a flood, earthquake, tornado, or hurricane. Disasters or emergencies referenced herein shall be declared by the Governor of the State of Florida or the President of the United States of America. (Ord. No. 96-14, 2, 9-3-96)

Sec. 6.04. Limitations on [general obligations] indebtedness.

A proposal to borrow money by issuance, in full faith and credit, of bonds of the Town for a specific purpose shall be presented to the qualified electors of the Town at any election. If the proposal is approved by the majority of the voters, the Town is authorized to issue such bonds in the amount which, together with all outstanding indebtedness at the time, shall not exceed the aggregate percentage provided by law of the assessed valuation of the taxable property within the Town as determined by the most recent assessment. Such bonds may be issued in fixed denominations and at rates of interest not to exceed the then prevailing interest rate, as may be determined by the Town Council, with methods for repayment and repayment schedules announced by the Town Council prior to issuance. Each bond issued shall bear the ultimate date at which the redemption shall be mandatory if it is not called for retirement prior to such date.

ARTICLE VII. ELECTORAL PROVISIONS**Sec. 7.01. Qualifications.**

Any person who is a resident of the Town and registered through the Brevard County Registration System shall be an elector of the Town.

State law reference--Qualifications of municipal electors, F.S. 97.041, 98.091, 166.032.

Sec. 7.02. Regulating ordinance.

Regulations for the conduct and supervision of local election shall be established by ordinance, on a non-partisan basis.

Sec. 7.03. Time and manner of elections.

Regular Town elections shall be held on the first Tuesday after the first Monday in November each year when required by this Charter. Candidates for the Town Council shall run at large for particular seats on the Town Council, and the candidate for the Office of Mayor shall also run at large for the position of Mayor. Said seats shall be designated as "Seat 1", "Seat 2", "Seat 3", "Seat 4", and "Mayor". The candidate receiving the highest number of votes cast for the particular seat which the candidate is seeking to be elected to shall be declared the winner of the election for that particular seat. The seat numbering sequence shall be designated by ordinance. (Ord. No. 96-9, 2, 7-16-96)

ARTICLE VIII. INITIATIVE AND REFERENDUM**Sec. 8.01. General authority.**

(1) *Initiative.* The qualified voters of the Town shall have power to propose ordinances to the 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, provided that 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.

(2) *Referendum.* The qualified 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, provided that such power shall not extend to the budget or capital program or any emergency ordinance or ordinance relating to appropriation of money or levy of taxes.

Sec. 8.02. Commencement of proceedings; petitioners' committee; affidavit.

Any five (5) qualified voters may commence initiative or 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.

Promptly after the affidavit of the petitioners' committee is filed the Clerk shall issue the appropriate petition blanks to the petitioners' committee.

Sec. 8.03. Petitions.

(1) *Number of signatures.* Initiative and referendum petitions must be signed by qualified voters of the Town equal in number to at least fifteen percent (15%) of the total number of qualified voters registered to vote at the last regular Town 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. 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 circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he 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 Council of the ordinance sought to be reconsidered.

Sec. 8.04. Procedure after filing.

(1) *Certificate of clerk; amendment.* Within twenty (20) days after the petition is filed, the Town Clerk 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 petitioners' committee files a notice of intention to amend it with the Clerk within two (2) days after receiving the copy of his certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petitions shall comply with the requirements of subsections (2) and (3) of Sec. 8.03, 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 insufficient and the petitioners' committee does not elect to amend or request Council review under subsection (2) of this section within the time required, the Clerk shall promptly present his 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 amendment 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.

Sec. 8.05. 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, or
- (2) The petitioners' committee withdraws the petition, or
- (3) The Council repeals the ordinance, or
- (4) Thirty (30) days have elapsed after a vote of the Town on the ordinance.

Sec. 8.06. Action 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 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 thirty (30) 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.* 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 four (4) members 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.

Sec. 8.07. Results of election.

(1) *Initiative.* If a majority of the qualified electors 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 qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Sec. 8.08. Recall of councilmen or mayor.

Recall procedure shall be in accordance with Florida Statutes.

State law reference--Recall of municipal officers, F.S. 100.361.

ARTICLE IX. ZONING AND PLANNING

Sec. 9.01. Town policies.

The Council shall adopt, and may from time to time modify, policies to govern the physical development of the town. Any changes or modifications shall be presented by the Council at public hearings prior to its adoption.

Sec. 9.02. Land use and development.

The Council shall by ordinance adopt regulations for the use and development of all areas within the Town, including but not limited to those for the preservation of health, ecological, aesthetic, and historic values; to prevent accidents and fires; to minimize potential wind and storm damage; and to control the circulation, storage and parking of motor and other vehicles; and for other reasons which contribute to the well-being of residents.

Sec. 9.03. Zoning and planning board.

A Zoning and Planning Board shall be provided by Ordinance.

Sec. 9.04. Board of adjustment.

A Board of Adjustment shall be provided by Ordinance.

Sec. 9.05. Community Redevelopment Agency referendum requirement.

The Town of Indialantic shall not establish or retain a Community Redevelopment Agency as defined by Florida Statute without obtaining the approval of a majority of the qualified voters casting ballots in a referendum

(Ord. 05-14, 2, 9-14-05, Ref. 11-8-05)

ARTICLE X. (RESERVED)***ARTICLE XI. MISCELLANEOUS PROVISIONS****Sec. 11.01. Actions against the town.**

No action shall be maintained against the Town for damage, injury, death or other loss arising out of accident, or the alleged failure to keep in proper condition any public properties or places, or any alleged or imputed negligence of the Town or any of its officers or employees unless:

- (1) It shall appear that the loss was proximately caused by negligence of the Town or some town officer or employee; and
- (2) Written notice of such loss shall have been given to the Town Manager within sixty (60) days after the occurrence of the accident or other event causing the loss by the injured party or his agent or attorney; and
- (3) Such notice contains such reasonable specifications as to time, place and witnesses as will enable the Town to investigate the matter.

The Town may make such reasonable settlement of any such loss as may be agreed upon by the Council.

State law reference--Waiver of sovereign immunity for tort actions, F.S. 768.28.

Sec. 11.02. Charter amendments and revision.

The Charter may be amended in accordance with Florida Statute 166.031 which provides for Amendment of Municipal Charters.

Sec. 11.03. Conflicting laws.

All municipal laws or parts thereof, ordinances or regulations insofar as they conflict with or are inconsistent with the provisions of this Charter shall be and the same are hereby repealed.

***Editor's note--**Article X, relating to the Town's judicial system, was rendered obsolete by Fla. Const., Art. V, 20, and therefore was repealed by Res. No. 18-78 pursuant to 11.05 of this Charter

Sec. 11.04. Severability.

If any article, section, or portion of article or section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such article, section or portion of an article or section so held invalid may appear, except to the extent that an entire article or part of a section may be inseparably connecting [connected] in meaning and effect with that portion of this Charter to which the holding shall directly apply.

Sec. 11.05. Legality.

Any section of any article in this Charter that is invalid or is otherwise prohibited by Federal or State Statutes is automatically repealed. When it appears that a decision of a court of last resort invalidates an equivalent provision of this Charter, such statute or decision shall automatically repeal such invalidated provision without the necessity of amending this Charter, unless such amendment is otherwise deemed necessary and advisable.

Sec. 11.06. Ordinances remain in force.

All ordinances of the Town now in force and which are not in conflict with the provisions of this Charter, the Constitution and Laws of the United States and the State of Florida shall be and remain Ordinances of the Town, until altered, amended, modified or repealed by the Town Council.

Sec. 11.07. Schedule of effective date.

This Charter shall be in full effect for all purposes on or after the time specified when presented for adoption, or if the date is not included, this Charter shall become effective at a time specified by the Town Council, but in no case longer than thirty (30) days after the adoption by affirmative majority votes cast by the electors of the Town.

Editor's note--Neither Ord. No. 168, submitting this charter to referendum, nor any other action of the council, specified when it would go into effect. Presumably, therefore, it became effective 30 days after its approval at election, that is on Dec. 7, 1978.