

Municipal charter, protection of trees

Number: INFORMAL

Date: April 11, 2002

Mr. Robert K. Robinson
North Port City Attorney
2750 South Tuttle Avenue, Suite 3
Sarasota, Florida 34237

RE: MUNICIPALITIES-CHARTERS-TREES-adoption of charter amendment relating to protection of trees. s. 166.031, Florida Statutes.

Dear Mr. Robinson:

As attorney for the City of North Port, Florida, you have asked whether section 166.031, Florida Statutes, would authorize the amendment of the municipal charter to include a tree protection provision. Attorney General Butterworth has asked that I respond to your letter.

Section 166.031, Florida Statutes, authorizes the electors of a municipality, by petition signed by 10 percent of the registered electors of that municipality, to submit a referendum proposal for a charter amendment. The statute provides that such amendment "may be to any part or to all of said charter except that part describing the boundaries of such municipality." [1]

Following verification of the signatures of the required number of electors, the governing body of the municipality is required to place the proposed amendment contained in the petition to a vote of the electors. This vote must take place at the next general election held within the municipality or at a special election called for such purpose. [2]

Upon adoption of the charter amendment, the governing body of the municipality must incorporate the amendment into the charter and must file the revised charter with the Department of State. [3] All such amendments are effective on the date specified in the amendment or as otherwise provided in the charter. [4]

With the exception of changes to the boundaries of a municipality, nothing in section 166.031, Florida Statutes, limits the subjects upon which municipal electors may propose charter amendments. While a number of local governments currently enforce this type of environmental provision in the form of tree protection ordinances, [5] I am aware of nothing which would prohibit the inclusion of such a provision in a municipal charter.

Thank you for allowing this office to assist you in resolving this matter. I trust that these informal comments will be helpful.

Sincerely,

Gerry Hammond

Assistant Attorney General

GH/tgk

[1] Section 166.031(1), Fla. Stat.

[2] Section 166.031(1), Fla. Stat.

[3] Section 166.031(2), Fla. Stat.

[4] Section 166.031(2), Fla. Stat.

[5] See Op. Att'y Gen. Fla. 00-53 (2000), copy enclosed.