

## PART 1 CHARTER OF THE CITY OF PUNTA GORDA, FLORIDA\*

\*Editor's note--Ord. No. 1169-96, <sec> 1, adopted November 20, 1996, and Ord. No. 1399-04, <sec> 2, adopted December 15, 2004 provided for the adoption of an amended and revised Charter as the Charter of the City of Punta Gorda. The Charter was previously amended by approval of the voters at a referendum election on February 8, 1977. The former charter was set forth in Ch. 63-1832, Laws of Florida, Special Acts of 1963. Certain provisions of the Charter were also amended by Ordinance Numbers 1170-96, 1171-96 and 1172-96, all of which were adopted November 20, 1996, and approved by voters at a referendum election on February 4, 1997. Certain provisions of the Charter were most recently amended by Ordinance Number 1851-16, which was adopted July 13, 2016 and approved by voters at a referendum election on November 8, 2016.

Amended sections are followed by citation to the amending legislation. Where no citation is given, the section remains unchanged from the provisions of Ord. No. 490.

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## **ARTICLE I. ESTABLISHMENT**

### **Section 1. Charter amended and revised.**

Be it enacted by the people of the City of Punta Gorda, Florida, that the existing City Charter of the City of Punta Gorda filed in the Office of Secretary of State of Florida upon November 30, 1996 (Ordinance No. 1196-96) be and it is hereby amended and revised and, as so amended and revised, shall, from the effective date hereof, be and constitute the Charter of said City unless so amended pursuant to Section XVII herein.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

### **Section 2. Continuation of present municipality.**

The inhabitants of said City, and the area thereof, shall continue to constitute a body politic and corporate under this amended and revised Charter and shall continue to be known and designated as the City of Punta Gorda, Florida. As such, it shall have perpetual succession and shall act and may sue and be sued as such corporate entity. It shall continue the use of the common seal heretofore employed until any change or alteration thereof shall be provided by ordinance.

### **Section 3. Existing liabilities.**

No existing obligations or contracts of said municipality, inclusive of bonds heretofore issued, shall be impaired or voided by revision.

(Ord. No. 1399-04, <sec> 2, 12-15-04)

### **Section 4. Continuation of existing officers and ordinances.**

All officers heretofore elected, or appointed, and holding office in said municipality shall continue to hold their respective offices, and to discharge the respective duties thereof, until their successors are elected and qualified under the provisions of this revised Charter. All existing ordinances of said municipality, inclusive of sections of the predecessor municipal Charter (Chapter 63-1832, Laws of Florida, Special Acts of 1963) declared to be ordinances as provided by subsection 5 of Section 166.021 of the Municipal Home Rule Powers Act shall continue in full force and effect and unimpaired unless and until repealed, amended or modified by subsequent act of the legislative body of the City.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 5. Continuation of title, rights and ownership of property.**

The title, rights and ownership of property and all uncollected taxes, dues, claims, judgments, decrees and causes of action, held or owned by the City of Punta Gorda, shall remain vested in the municipality.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE II. INCORPORATION; BOUNDARIES**

The inhabitants of the City of Punta Gorda, Florida, within the corporate limits existing immediately prior to the effective date of this Charter, the same encompassing all that land included within the municipal boundaries as defined in Chapter 63-1832, Laws of Florida, Special Acts of 1963, and all land annexed to said municipality since the effective date of said Chapter 63-1832, and all lands hereinafter annexed thereto, shall continue to be a municipal body politic and corporate in perpetuity under the name of "City of Punta Gorda, Florida".

The legal description of the City boundaries, as set out above, and all ordinances amending said boundaries shall be maintained by the City Clerk. The Council shall, from time to time, adopt maps depicting the City boundaries, but the actual legal description shall prevail over any inaccuracy in any such map.

(Res. No. 858-87, Ex A, 07-15-87; Res. No. 882-88 <sec> 1, 02-03-88; Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04, <sec> 2, 12-15-04)

## **ARTICLE III. FORM OF GOVERNMENT; COMPOSITION OF COUNCIL; ITS POWERS AND DUTIES**

### **Section 1. Form of government.**

The municipal government provided by this Charter shall be known as the "Council-Manager government". Pursuant to its provisions and subject only to the limitations imposed by the general laws of this state, by the State Constitution, and by the amended and revised Charter, all powers of this City, as declared by statute, shall be vested in an elective Council, hereinafter referred to as "Council."

### **Section 2. Number; selection; term.**

The Council shall consist of five (5) members who shall reside one in each of five (5) City Council districts, the districts together covering the entire City, and as nearly equal in population as practicable; and each Councilmember shall be elected by the qualified electors of the City at large. Within one (1) year after each decennial census is certified by the Census Bureau, the Council shall divide the City into districts of contiguous territory as nearly equal in population as practicable.

All Councilmembers shall be elected for two-year terms which shall be staggered so that alternatively, one more or one less than half of the Councilmembers shall be elected every year.

(Res. No. 807-85 <sec> 1, 10-16-85; Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 3. Qualifications.**

Councilmembers shall be, at all times, qualified electors of the City and shall hold no other compensated public office except that of notary public, or member of the national guard or armed forces reserve. Councilmembers shall reside in their district for six months prior to the date of election and throughout their term. If a Councilmember shall cease to possess any of the qualifications prescribed by this Charter, or by law, or shall be convicted of a felony, his or her office shall immediately and automatically become forfeited.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04, <sec> 2, 12-15-04)

### **Section 4. Salary.**

The salary of Councilmembers shall be equal to 20% of the salary of Charlotte County Commissioners and the salary of the Mayor shall be equal to 22.5% of the salary of Charlotte County Commissioners which is determined by the State legislature.

(Res. No. 858-87 Ex. B, 07-15-87; Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1851-16 <sec> 1, 07-13-2016)

### **Section 5. Presiding officer; Mayor; Vice-Mayor.**

At each organizational meeting, the Council shall elect one of its members as Mayor. Such election shall be conducted by the City Attorney. The Mayor shall preside at meetings of the Council and shall be recognized as head of the City government for all ceremonial purposes, by the Governor for the purposes of military law, and for the service of process on the City. The Council shall also elect one of its members as Vice-Mayor. The Vice-Mayor shall act as Mayor during the absence or disability of the Mayor. In the event of the death, resignation or disqualification of the Mayor, the Vice-Mayor shall assume the office of Mayor until the next succeeding organizational meeting and the Council shall appoint a new Vice-Mayor to serve until the next succeeding organizational meeting. In the event of the death, resignation or disqualification of the Vice-Mayor, the Council shall appoint a new Vice-Mayor to serve until the next succeeding organizational meeting.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 6. Vacancies in the Council membership; forfeitures of office.**

- (a) Any vacancy on the Council occasioned by the death, resignation, successful recall election, permanent disability, forfeiture of office or change of permanent residence to a location outside of the district the Councilmember was elected to represent shall be filled for the remainder of the unexpired term by majority vote of the remaining members of the Council; provided however, that if such vacancy is not filled within twenty-five (25) days after it shall have occurred, appointment to fill it shall be made by the Governor of Florida. For the purposes of this Section, in addition to grounds for forfeiture of office specified in other Sections of this Charter, grounds for forfeiture of office shall be: malfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.

- (b) At any regular or special meeting of the City Council, the Council may adopt a resolution alleging the forfeiture of office by a Councilmember, which resolution shall state with specificity the alleged grounds for forfeiture of office. In its discretion, the City Council may choose to reprimand or censure a Councilmember instead of causing a forfeiture of office. The party affected by such resolution shall be given written notice thereof, which shall be delivered to his or her personal place of abode within twenty-four (24) hours after the resolution is adopted. Within three (3) days after the adoption of the resolution, the affected party may, in writing served upon the City Clerk, demand a hearing upon the question of forfeiture at a public hearing to be fixed within ten (10) days of such demand. If not written demand for a hearing is timely served upon the City Clerk, or if following the public hearing the Council determines that the affected party has forfeited his or her office, or if the affected party has resigned prior to a vote of the Council, the time in which a replacement may be appointed by the Council is extended until twenty-five (25) days after the date of the scheduled public hearing.

(Ord. 1169-96 <sec> 1, 11-20-96; Ord. No. 1851-16 <sec> 1, 07-13-2016)

### **Section 7. Induction of Councilmember into office; meeting of the Council.**

The first regular meeting of the Council following a City election shall be termed the organizational meeting, at which newly elected members shall be inducted into office. The Council shall meet regularly at such times as may be prescribed by its rules or resolution but not less frequently than twenty-two (22) times per year and not less than once per month. Except as otherwise permitted by law, all meetings of the Council shall be open to the public. The Mayor, any member of the Council, or the City Manager may call special meetings of the Council upon at least twenty-four (24) hours' notice to each member, and proof of such notice or attempted notice shall be filed at the called meeting. The purpose of the meeting shall be stated in the notice.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04, <sec> 2, 12-15-04; Ord. No. 1851-16 <sec> 1, 07-13-2016)

### **Section 8. Quorum.**

A majority of all members elected to the Council shall constitute a quorum, but a lesser number may adjourn from day to day and compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of at least three (3) members shall be necessary to enact any ordinance or adopt any resolution.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

### **Section 9. Council to be judge of qualifications of its members.**

The Council shall be the judge of the election and qualifications of its members including all residency requirements, and for such purpose shall have the power to subpoena witnesses and require the production of records by subpoena, but the decision of the Council in any such case shall not preclude review thereof by a court of competent jurisdiction.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

## **Section 10. Rules of procedure and journal.**

The Council shall determine its own rules and order of business. It shall keep a journal of its proceedings, and the journal shall be open to public inspection and shall reside in the office of the City Clerk.

(Ord. No. 1399-04 <sec> 2, 12-15-04)

## **Section 11. Absence from meetings.**

Willful absence from four (4) consecutive regular meetings of the Council shall operate to forfeit the office of a member, unless such absence is excused by resolution duly adopted by the Council setting forth the facts and circumstances causing such absence.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

## **Section 12. Enactment of Ordinances.**

In the enactment of ordinances, the Council shall proceed as required by statute.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

## **Section 13. Appointment and removal of City Manager, City Clerk, and City Attorney.**

The City Manager, City Clerk, and City Attorney shall be chosen solely on the basis of their qualifications, in respect to the duties of the offices as hereinafter set forth. At the time of their appointments they need not be residents of the City or State, but, during their tenures in office, the City Manager shall reside in the City and the City Attorney and City Clerk shall reside in Charlotte County. Such appointments shall be for indefinite terms by a majority vote of all Councilmembers.

The Council may remove the City Manager, City Clerk or City Attorney by a majority vote of all the Councilmembers.

The compensation and terms of employment of the City Manager, City Clerk and City Attorney shall be fixed by the Council.

(Res. No. 858-87 Ex. D, 07-15-87; Res. No. 882-88 <sec> 2, 02-03-88; Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1170-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

## ARTICLE IV. CITY MANAGER

### Section 1. The City Manager's powers and duties.

The City Manager shall be the chief operations officer of the City of Punta Gorda and in general charge of the administrative branch of the City government. He or she shall be responsible to the Council for the proper administration of all affairs of the City, and to that end, subject to the personnel provisions of this Charter, he or she shall have power and shall be required to:

- (a) Appoint, and, when he or she deems it necessary for the good of the City, suspend or remove any City employee in the classified service as provided for by or under this Charter, ordinances of the City or personnel rules adopted pursuant to this Charter; where such appointment, removal or suspension involves the head of any department, the City Manager shall forthwith make report thereof to the Council.
- (b) Prepare and submit to the council as of the end of each fiscal year, a complete report on the finances and administration activities of the City for the preceding year.
- (c) Prepare and submit the annual budget, budget message, and capital program to the Council in form provided by ordinance.
- (d) Keep the Council fully advised as to the financial condition and future needs of the City, and make such recommendations to the Council concerning the affairs of the City as the City Manager or the Council deems desirable.
- (e) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.
- (f) Attend all Council meetings and have the right to take part in discussion, but may not vote.
- (g) See that all laws, provisions of this Charter and acts of the Council subject to enforcement by him {or her} or by officers subject to his or her direction and supervision are faithfully executed.
- (h) Sign contracts on behalf of the City pursuant to the approval of the Council first obtained and in accordance with the provision of any appropriation ordinances; provided however, that when any contract shall provide for the maximum expenditure of not more than such amount as may be fixed by ordinance, then such prior approval need not be obtained. This provision, however, shall not supersede any provisions of the statutes or ordinances requiring competitive bids nor authorize any contract to exceed amounts appropriated for that general classification of expenditures.

- (i) Perform all such other duties as are specified in this Charter, or as may be required of him or her by the Council, not inconsistent with this Charter.

(Res. No. 858-87 Ex. E, 07-15-87; Ord. No. 1169-96 <sec> 1, 11-20-96)

**Section 2. Interference with administration.**

- (a) The Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.
- (b) Nothing in the foregoing is to be construed to prohibit individual members of the Council from closely scrutinizing, by personal observation and questions to City officers and employees, all aspects of City government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the Council.
- (c) Recommendations for improvement in City government operations by individual Councilmembers shall be made to and through the City Manager.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

**Section 3. Acting City Manager.**

By letter filed with the Council, the City Manager shall designate, subject to approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of City Manager during any temporary absence or disability. During such absence or disability, the Council may revoke its approval of such designation at any time and appoint another officer of the City to serve until the City Manager shall return or any disability shall cease.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

**Section 4. Departments and divisions.**

City departments shall include those designated in this Charter and such other departments as have been or may be created by ordinance. The work of each department may be distributed among such divisions thereof as may be established by the City Manager.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE V. FISCAL YEAR AND BUDGET**

### **Section 1. Fiscal year.**

The fiscal year of the City government shall begin on the first day of October of each year and end on the thirtieth day of September following. Such fiscal year shall also constitute the budget and accounting year. As used in this Charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered, except as the same shall be amended by statute.

### **Section 2. Adoption of budget.**

The City budget shall be adopted annually and amended as necessary in accordance with the general law of the State of Florida.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE VI. CAPITAL IMPROVEMENTS BY SPECIAL ASSESSMENT AND ISSUANCE OF BONDS**

The Council shall have power to provide for the construction, reconstruction, repair and maintenance by contract, or directly by the employment of City labor, of all things in the nature of local improvements and services, and to provide for the payment of all or any part of the cost of all or any part of any such local improvements and services by levying and collecting special assessments upon abutting, adjoining, contiguous or other specifically benefitted property.

Special assessments upon the property deemed to be benefitted by a public improvement or service shall be determined by any one or more of the following methods:

- (a) By the increase in value of the property assessed effected by the improvement or service.
- (b) In proportion to the benefits which may result from the improvement or service.
- (c) By front footage or square footage of the property bounding or abutting upon the improvement or service, or such other method as may be equitable.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE VII. PERSONNEL**

### **Section 1. Merit basis of appointment.**

Appointments and promotions in the administrative service of the City shall be made according to merit and qualifications. To carry out this purpose, there may be created a department of human resources, the head of which shall be the human resources director, who shall be appointed by the City Manager.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 2. Unclassified and classified service.**

- (a) The unclassified service shall comprise the following offices and positions:
- (1) Members of the Council, other elective officers and persons appointed to fill vacancies in elective offices.
  - (2) The City Manager, the City Clerk and the City Attorney.
  - (3) Members of boards and commissions in the City's service.
  - (4) Persons employed or appointed to make or conduct a special inquiry, investigation, make reports or conduct examinations. If the Council or the City Manager certifies that such employment is temporary and that the work should not be performed by employees as classified service.
- (b) The classified service shall comprise all offices and employments not specifically included in this section in the unclassified service.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 3. City Personnel Rules and Regulations.**

The City shall adopt and enforce a policy prohibiting illegal harassment of employees in the workplace. There shall be no illegal discrimination in employment, employment opportunities or job actions on the basis of race, color, religion, age, sex, national origin, disability, pregnancy, genetic information, or marital status. No job applicant or present employee will be illegally discriminated against or given preference because of any of the above characteristics, unless otherwise required by law.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1171-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04; Ord. No. 1851-16 <sec> 1, 07-13-2016)

## **ARTICLE VIII. POLICE AND FIRE FORCES**

### **Section 1. Police force.**

The police force of the City of Punta Gorda shall consist of a chief of police and as many subordinate officers and employees as the Council shall by ordinance determine. The department shall operate as a part of the classified service.

### **Section 2. Fire department.**

The fire department of the City of Punta Gorda shall consist of a fire chief and as many subordinate officers and employees as the Council shall by ordinance determine. The department shall operate as a part of the classified service.

## **ARTICLE IX. ELECTIONS**

### **Section 1. Date of elections.**

General municipal elections shall be held the first Tuesday after the first Monday in November of every year in which elections are called for by this Charter. If more than two candidates qualify for office, a primary shall be held pursuant to State Election Laws. The two candidates receiving the highest number of votes in the primary election for a particular Council seat shall be declared candidates for said Council seat and run in the general municipal election. Councilmembers elected by these elections shall take office on the next regularly scheduled Council meeting following certification of the results of these elections.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04; Ord. No. 1749-13<sec>1, 6-5-13)

### **Section 2. Election procedure.**

The Council shall make all necessary arrangements for holding all City elections, and shall declare the result thereof. Inspectors and clerks of election shall be appointed by the Council, except that if the Council shall fail to appoint them at least two (2) days before the date of any election, the Mayor may appoint them. The Council shall issue a proclamation calling any general or special election, except as herein otherwise provided for, stating therein where the same shall be held and naming the different offices to be filled or questions to be decided, and shall cause the same to be published once a week for three (3) consecutive weeks immediately preceding the day of election in a newspaper published and having general circulation in the City, but no want of proclamation or publication shall defeat any general election of City officers herein specified.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 3. Canvass of returns.**

The City's canvassing board shall consist of the Mayor, the City Manager and the City Clerk, who shall act as the chair. In the event any member of the canvassing board is unable to serve, is a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed, such member shall be replaced by the Council with a person who is able to serve, is not a candidate, and is not an active participant in the election. The results of the voting, when ascertained, shall be certified and signed by the City Clerk and shall be delivered by the City Clerk to the canvassing board at a meeting to be held on the day following the election. At such meeting the canvassing board shall canvass the returns, and the result as shown by such returns shall be declared to be the result of election. The City Clerk shall, not later than noon of the second day after the canvassing board declares the result, furnish a certificate of election to each person shown to have been elected.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 4. Qualifications of candidates.**

The name of any elector of the City shall be printed upon the general election ballot if there is filed with the City Clerk a petition in accordance with the following provisions, to wit:

- (a) Such petition shall state the name of each person whose name is presented for a place upon the ballot, and that he or she is a candidate for the office of Council for the City of Punta Gorda, Florida.
- (b) Such petition shall be signed by not less than twenty-five (25) but not more than fifty (50) of the registered electors who reside in the same district as the Councilmember to be qualified.
- (c) To the signatures of all petitions shall be attached an affidavit to the circulator thereof stating the number of signers thereto, that each person signed in his or her presence on the date mentioned, and that the signature is that of the person whose name it purports to be.
- (d) Such petition shall not be signed by any elector except during the established qualification period as set by State Election Laws.
- (e) The dates of qualifying shall be pursuant to State Election Laws.

- (f) All elections to the Office of Councilmember shall be on a nonpartisan basis without regard for or to designation of the political party affiliation of any candidate on any petition or ballot.

If a candidate is unopposed after qualifying ends, such candidate shall be deemed to have been elected as of the date of the election.

(Res. No. 807-85 <sec> 1, 10-16-85; Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04; Ord. No. 1749-13<sec>2, 6-5-13)

### **Section 5. Voting.**

All candidates for Council shall be voted on by the electors of the City at large. Districts shall be numbered consecutively from one (1) through five (5) and any candidate for membership on the Council shall designate in the candidate's petition for a place on the ballot the district in which he or she resides. The candidate in each district who receives a majority of the total votes cast in all five (5) districts in the City shall be declared elected. In the event there shall be a tie in the general election, the election shall be decided by lot to be conducted publicly by the City Attorney.

(Res. No. 807-85 <sec> 1, 10-16-85; Ord. No. 1399-04 <sec> 2, 12-15-04; Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 6. General election laws to apply.**

All elections shall be conducted, except as otherwise specifically provided under this act, under the rules and conditions prescribed by law, and subject to the general election laws of the state. The Council is specifically authorized and empowered to provide for conducting all City elections on voting machines, provided however, that in the event voting machines shall be used, paper ballots as provided by law shall be furnished for absentee voting.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE X. DEPARTMENT OF LAW**

### **Section 1. Council to make appointment.**

The Council may provide for a department of law and shall appoint a City Attorney, who shall serve at the will of the Council.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 2. City Attorney to head department; compensation.**

The City Attorney shall be designated as head of the department of law and shall be a duly qualified and licensed attorney-at-law for the State of Florida. Compensation shall be determined by Council. Such appointee shall in no instance accept employment as private counsel in any matters adverse to the City of Punta Gorda.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE XI. PLANNING COMMISSION**

### **Section 1. Council to make appointment.**

The Council shall by ordinance provide for a planning commission in accordance with the powers granted to the Council by Chapter 163 of the Florida Statutes, 1975, as amended from time to time.

(Ord. No. 1399-04 <sec> 2, 12-15-04)

## **ARTICLE XII. INITIATIVE; REFERENDUM; RECALL**

### **Section 1. Power of initiative.**

The electors shall have power to propose any ordinance, except an ordinance appropriating money, authorizing the levy of taxes, an ordinance in regard to any development order as defined in Section 163.3164, Florida Statutes, or an ordinance in regard to any local comprehensive plan amendment or map amendment, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the Council by a petition signed by qualified electors of the City equal in number to at least ten (10) percent of the registered voters at the last preceding regular municipal election.

Prior to obtaining signatures for an initiative, the persons initiating the petition shall file with the City Clerk a copy of the form of petition to be used, a list of the person or persons who shall comprise the committee of petitioners, and an address to which notices to the committee shall be sent. For an initiative, the required number of signatures must be collected within ninety (90) days after the form of petition is filed with the City Clerk.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1851-16 <sec> 1, 07-13-2016)

### **Section 2. Power of referendum.**

The electors shall have the power to reject at the polls any ordinance passed by the Council except an ordinance in regard to any development order as defined in Section 163.3164, Florida Statutes, or an ordinance in regard to any local comprehensive plan amendment or map amendment. Such power being known as the referendum. Within twenty (20) days after the enactment by the Council of any ordinance, other than the type of ordinance herein identified above, a petition signed by qualified electors of the City equal in number to at least ten (10) percent of the registered voters at the last preceding regular municipal election, may be filed with the City Clerk, requesting that any such ordinance be repealed. An adopted ordinance sought to be repealed by means of a referendum pursuant to the provisions of this Section shall be called a "referred ordinance".

Prior to obtaining signatures for a referendum, the persons initiating the petition shall file with the City Clerk a copy of the form of petition to be used, a list of the person or persons who shall comprise the committee of petitioners, and an address to which notices to the committee shall be sent.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1851-16 <sec> 1, 07-13-2016)

### **Section 3. Form of petitions; committee of petitioners.**

All petition papers circulated for the purpose of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any petition paper shall sign his or her name in ink, and shall indicate, after his or her name, his or her place of residence by street and number, or other description sufficient to identify the place. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that the circulator, and he or she only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his or her presence, and that he or she believes them to be the genuine signatures of the persons whose names they purport to be.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

### **Section 4. Filing, examination and certification of petitions.**

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the City Clerk as one instrument. Within twenty (20) days after a petition is filed, the City Clerk shall determine whether each paper of the petition has a proper statement of the circulator, and whether the petition is signed by a sufficient number of qualified electors. The City Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof. If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing the examination of the petition, the City Clerk shall certify the result thereof to the Council at its next regular meeting. If the City Clerk certifies that the petition is insufficient, he or she shall set forth in the certificate the particulars in which it is defective, and shall at once notify the committee of the petitioners of his or her findings.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **Section 5. Amendment of petitions.**

An initiative or referendum petition may be amended, at any time within ten (10) days after the notification of insufficiency has been sent by the City Clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The City Clerk shall, within five (5) days after such an amendment is filed, make examination of the amended petition and if the petition is still insufficient, he or she shall file certification to that effect in his or her office and notify the committee of the petitioners of the findings, and no further action shall be had on such insufficient petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

## **Section 6. Effect of certification of referendum petition.**

When a referendum petition or amended petition as defined in section 5 of this Article has been certified as sufficient by the City Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors as hereinafter provided.

## **Section 7. Consideration of initiative or referendum petition by Council.**

Whenever the Council receives a certified initiative or referendum petition from the City Clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read, and provision shall be made for a public hearing upon the proposed ordinance. The Council shall take final action on the ordinance not later than sixty (60) days after the date on which such ordinance was submitted to the Council by the City Clerk. A referred ordinance shall be reconsidered by the Council, and its final vote upon such reconsideration shall be upon the question: "Shall the ordinance specified in the referendum petition be repealed?"

## **Section 8. Submission of proposed or referred ordinances to electors.**

If the Council shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefore, or if the Council fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty (30) days nor more than one year from the date the Council takes its final vote thereon. The Council may, in its discretion, and if no regular election is to be held within such period, provide for a special election.

## **Section 9. Form of ballot for initiated and referred ordinances.**

Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the City Attorney or other principal legal advisor of the City. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **Section 10. Results of election.**

If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the City. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1851-16 <sec> 1, 07-13-2016)

## **Section 11. Recall; petition.**

Any or all members of the Council may be removed from office by the electors, by following the procedure for municipal recall as provided by general law.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **ARTICLE XIII. STREETS AND PUBLIC GROUNDS**

### **Section 1. Jurisdiction over streets.**

The Council shall have full power and authority to provide by ordinance for the acceptance, maintenance and vacating of all public streets, alleys and thoroughfares, and shall further have the right to provide by ordinance for the removal of weeds, rubbish, and debris and to assess against abutting properties benefitting therefrom the cost of removal from sidewalks and parkways of weeds, rubbish or excessive growth of grass, including debris resulting from fires or demolition of buildings or other structures.

### **Section 2. Dedication of streets.**

No street or alley heretofore or hereafter dedicated to public use and as to which dedication by any plat of subdivision has been assented to by the City shall be deemed to have been accepted by the City for purposes of maintenance until the City has voluntarily assumed the obligation of maintenance by adoption of a resolution so to do.

### **Section 3. Vacating, widening or narrowing of streets; change of name of streets.**

The Council shall have the right to vacate, widen or narrow any street or part thereof or to change the name of any street, provided however, that before vacating, widening or narrowing any street or part thereof or changing the name of any street, the Council shall first pass a resolution declaring its intention to take such action, and shall provide by ordinance for the publication of notice of such proposed change and fix public hearing to be had thereon and the methods of notice to be given to abutting owners or occupants.

### **Section 4. Installation of streets and public utilities.**

No plat of a subdivision shall be accepted by the Council unless it complies with the requirements of applicable statutes and until the Council has received from the owner or subdivider of the land proposed to be subdivided adequate assurance, in the form of corporate bonds, surety bonds, escrow agreements, letters of credit or other such reasonable assurance as the Council may require, that the owner of the land will construct and install roadways and public utilities in accordance with standards adopted by the City prior to the commencement of any improvement thereof or any part thereof.

## **ARTICLE XIV. APPOINTMENT AND DUTIES OF CITY CLERK**

The Council shall appoint an officer of the City who shall have the title of the City Clerk who shall serve at the will of the Council. The City Clerk shall give notice as required by law or ordinance of the meetings of the Council, shall keep a journal of its proceedings and shall be custodian of all of the City's Council meeting minutes, ordinances, resolutions, contracts, deeds and easements. He or she shall authenticate by signature and record, in full, all ordinances or resolutions and shall perform such other duties as shall be required by this amended Charter, by ordinance, resolution of Council or by law. The director of each City department shall be the custodian of such department's records, but the City Clerk shall establish policies, which shall be in effect for all departments, for the retention or destruction of all City records.

(Res. No. 858-87 Ex. C, 07-15-96; Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

## **ARTICLE XV. FRANCHISES**

### **Section 1. Franchises; granting.**

The Council shall have authority and right to grant, by ordinance, franchises subject to such conditions as the City deems advisable, and may provide the maximum extent of such franchise subject to such limitations as may be imposed by statute, and further may provide by ordinance for the submission of such proposed franchise to the City electorate prior to the granting thereof.

## **Section 2. Franchises; period of grant.**

No such grant of franchise shall be exclusive, nor shall it be made for a longer period than thirty (30) years.

## **Section 3. Franchises; conditions.**

The Council, in the ordinance granting or renewing any franchise to construct and operate a public utility, may prescribe the manner in which the streets and public grounds shall be used and occupied.

## **Section 4. Franchises; assignment of grants.**

No such grant of franchise shall be leased, assigned or otherwise aliened, except by operation of law or with the express consent of the Council. Such consent shall be evidenced by formal resolution of the Council adopted at a regular meeting.

## **Section 5. Franchises; extension by annexation.**

It shall be provided in every grant that, upon the annexation of any territory to the city, the portion of any utility that may be located within such annexed territory and upon the streets, alleys or public grounds thereof shall thereafter be subject to all terms of the grant as though it were an extension made thereunder.

## **Section 6. Franchises; control of facilities.**

All grants shall be subject to the right of the City, whether in the terms reserved or not, to control at all times the distribution of space in, over, under or across all streets, alleys or public grounds occupied by public utility fixtures. When in the opinion of the Council the public interest so requires, such fixtures may be caused to be reconstructed, relocated, altered or discontinued, and said City shall at all times have the power to pass all regulatory ordinances affecting such utility which in the opinion of the Council are required in the interests of the public health, safety or accommodation.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

## **Section 7. Franchises; accounts and reports.**

Every person or corporation operating a public utility or holding an authorized franchise within the City limits, whether obligated under a grant heretofore or hereafter obtained, shall keep and maintain suitable and complete books of accounts, showing in detail the assets, financial obligations, gross revenues, net profits and all the operations of such utility which are usually shown by a complete system of bookkeeping as it relates to that portion of the franchise exercised within the City proper. Each such person or corporation, within ninety (90) days after the end of each of its fiscal years, unless the Council shall extend the time, shall file with the Council a report for the preceding fiscal year showing the gross revenue, the net profits, expenses of repairs, improvements and additions, amount paid for salaries, amount paid for

interest and discount, other expenses of operation, and such other information, if any, as the Council shall from time to time prescribe. The Council may prescribe the form for such reports. It shall be the duty of each such person or corporation to furnish the Council such supplementary or special information about its affairs as the Council may demand, and the Council or its authorized representative shall at any and all reasonable times have access to all the books, records and papers of each and every such person or corporation, with the privilege of taking copies of the same or any part thereof, and may require production, within the City, of such books, records and papers.

The duties herein prescribed may be specifically enforced by appropriate legal proceedings. Each such person or corporation failing to comply with the provisions of this section shall be liable to the City of Punta Gorda, Florida, in the amount of One Hundred Dollars (\$100.00) for each day of such failure, to be recovered in a civil action in the name of the City.

(Ord. No. 1169-96 <sec> 1, 11-20-96; Ord. No. 1399-04 <sec> 2, 12-15-04)

## **ARTICLE XVI. CHARTER REVIEW COMMITTEE**

### **Section 1. Charter Review Committee.**

Beginning in the year 2010 and every six (6) years thereafter, the City Council for the City of Punta Gorda shall authorize the formation of a Charter Review Committee for the express purpose of conducting a complete review of the City Charter and proposing amendments directly to the electorate at the next general election. Appointments to the Charter Review Committee shall be by the City Council of Punta Gorda. The Charter Review Committee shall be an independent body of up to fifteen (15) members with a separate budget. The City Council shall appoint the City Attorney to assist the Charter Review Committee in the exercise of its duties. Alternatively, the Charter Review Committee may appoint independent legal counsel.

(Ord. No. 1399-04 <sec> 2, 12-15-04; Ord. No. 1851-16 <sec> 1, 07-13-2016)

### **Section 2. City Council and Voter Petition.**

The City Council shall, by ordinance, amend any part of the Charter when such part is preempted by general or special laws or when, as a result of annexation or de-annexation, the corporate boundaries of the City change. Upon passage of the subject ordinance, the governing body shall have the amendment incorporated into the Charter and file same with the Florida Department of State. The City Council may, by ordinance, and the electors of the City may, by a petition signed by ten (10%) percent of the registered electors as of the last preceding municipal general election, submit to the electors a proposed amendment to the Charter. The governing body shall subject the proposed amendment(s) or petition(s) to referendum at the next general election or at a special election called for that purpose. Upon

passage of the amendment by majority of the electors voting in the referendum, the governing body, by ordinance, shall have the amendment incorporated into the Charter and shall file same with the Florida Department of State.

(Ord. No. 1399-04 <sec> 2, 12-15-04; Ord. No. 1851-16 <sec>1, 07-13-2016)

### **Section 3. Effective Date.**

Amendments to the Charter shall be effective immediately after approval by the electorate.

(Ord. No. 1399-04 <sec> 2, 12-15-04)

## **ARTICLE XVII. GENERAL PROVISIONS**

### **Section 1. Investigation by Council or City Manager.**

The Council, the City Manager, or any person or committee authorized by either of them shall have power to investigate the conduct of any office, department, agency or officer of the City or any other municipal affair, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence.

(Ord. No. 1169-96 <sec> 1, 11-20-96)

### **Section 2. Contracts extending beyond one year.**

No contract involving the payment of money out of the appropriations of more than one year shall be made for a period of more than five (5) years, nor shall any such contract be valid unless made or approved by ordinance.

### **Section 3. Publicity of records.**

The Council shall have the authority to adopt ordinances providing for the reasonable inspection of all records and accounts of the City, provided that such ordinance or ordinances shall be in conformity with the laws of the State of Florida and the United States.

### **Section 4. Personal interest.**

No member of the Council nor any officer or employee of the City shall have an interest, in violation of general law, in any contract with the City or in any legal entity which leases or sells to the City any lands, goods or services. Any willful violation of this section shall constitute malfeasance in office and shall subject such person to forfeiture of such office or position. Any contract entered into with the City in violation of this section, with the knowledge, expressed or implied, of the person or corporation contracting with the City, shall render the contract voidable at the option of the City.

(Ord. No. 1172-96 <sec> 1, 11-20-96)

## **Section 5. Official bonds.**

The Council shall by general ordinance provide for the giving of official bonds by the director of finance, the Council and such other persons as shall be involved in the handling of City funds, in such amounts and with such sureties as may be approved by the Council. The premiums on such bonds shall be paid by the City. Nothing otherwise stated in this article to the contrary, bonds may be contracted for periods exceeding five (5) years.

## **Section 6. Oath of office.**

Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the City Clerk:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States, and of the State of Florida, that I will, in all respects, observe the provisions of the Charter and Ordinances of the City of Punta Gorda, Florida, and will faithfully discharge the duties of the office of \_\_\_\_\_".

## **Section 7. Severability clause.**

If any section or part of 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 section or part of section so held invalid may appear, except that an entire section, or part of section may be inseparably connected in meaning and effect with the section, or part of section, to which such holding shall directly apply.

## **Section 8. Code of Ethics and Rules of Conduct**

All elected officials, appointed officers, and employees of the City of Punta Gorda shall comply with all applicable provisions of the State of Florida Code of Ethics for Public Officers and Employees, and the City of Punta Gorda Code of Conduct as adopted by the City Council.

(Ord. No. 1399-04, <sec> 2, 12-15-04; Ord. No. 1851-16 <sec> 1, 07-13-2016)

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