

PIERSON TOWN CHARTER

ARTICLE I. GENERAL PROVISIONS

Section 1. Establishment of New Municipality.

The inhabitants of the Town of Pierson, Florida, as its limits hereinafter are established, shall be and continue to be a body politic and corporate, to be known and designated as the "Town of Pierson," and as such shall have perpetual succession.

Section 2. Boundaries.

The corporate boundaries of the town shall remain as they exist on the date this amended charter provision takes effect, provided that the town shall have the power to change such boundaries in the manner prescribed by law. A description of the corporate boundaries shall be maintained on file by the Town Clerk and made available to the public.

Section 3. Powers of the Town.

Pursuant to Chapter 166, Florida Statutes and Article VIII, Section 2(b) of the Florida Constitution, titled the Florida Municipal Home Rule Powers Act, the Town of Pierson shall have the governmental, corporate, and proprietary powers to enable the Town to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law.

~~That the Town of Pierson, hereby created, established and organized, shall have full power and authority to acquire, take, hold, control and dispose of property, real, personal and mixed, both within and without its corporate limits, for the use, benefit, welfare and best interest of said municipality by acquisition, condemnation or otherwise; to issue and sell bonds upon its property both within and without its corporate limits, or the earnings thereof, or both; to adopt and enforce local police, sanitary and other similar regulations not in conflict with the laws of the State of Florida; to do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants, and to exercise all other powers of local self government; the enumeration of particular powers by this Charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, and said town shall have and may exercise, all other powers which, under the Constitution and Laws of Florida, it would be competent for this paragraph specifically to enumerate.~~

Section 4. [Officers.]

The government of the town shall be vested in the following officers:

A mayor whose term of office shall be four (4) years, and who shall be a voting member of the town council.

A town council, consisting of the mayor and four (4) additional council members, whose term of office shall be four (4) years.

~~A town marshal, and a town treasurer, each of whose term of office shall be two (2) years [and who] shall be chosen by a majority vote of the town council. Provided, that the town council may combine any or all of the foregoing offices.~~

~~All officers shall assume the duties of their respective offices on the first Monday in October, next following their election.~~

Rules and regulations of holding and certifying general and special elections shall be prescribed by the ordinances of said town. No person shall be eligible for election as mayor or ~~councilman~~ council member ~~who has not resided in the Town for a period of one year immediately preceding the qualifying date, and who is not a permanent resident and qualified elector of said Town of Pierson, and a citizen of the State of Florida and who has not resided in the Town for a period of one year immediately preceding the qualifying date.~~

Provisions for Elections

Nonpartisan elections.

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

Conduct of elections.

Town elections shall be conducted in accordance with the general election laws of the State of Florida.

Time of holding elections; primary and general.

Elections to elect the mayor and town council member whose terms expire in that year shall be held in each even-numbered year as follows:

The general election for mayor and town council members, if necessary, shall be held in each even-numbered year at the same time as and as part of the general election of the State of Florida.

The primary election for mayor and town council members, if necessary, shall be held in each even-numbered year at the same time as and as part of the primary election of the State of Florida.

Nomination and election; when primary election unnecessary; tie vote.

When there are less than three (3) qualified persons nominated for the office of mayor or council member, no primary election shall be held for the election of a mayor or council member and the town clerk shall declare the persons so qualified as nominees at the general election. However, if more than two (2) qualified persons are nominated for the office of mayor or council member, then the town clerk shall include the nominees in the primary election as herein provided.

If a candidate for mayor or council member receives 50% plus 1 of the total votes cast, that candidate shall be declared the winner. If no candidate receives 50% plus 1 of the total votes cast, the names of the two (2) candidates for nomination to the office of mayor or council member who shall receive the greatest vote in such primary election shall be placed on the ballot at the next general town election. The candidate at the general election who shall receive the greatest number of votes for the office of mayor or council member shall be declared the mayor or council member.

A tie vote between two (2) or more candidates for the office of mayor or between two (2) or more candidates for the office of town council member shall be determined by the drawing of lots.

When term of office commences.

The terms of office for mayor and council member shall commence at the first regular meeting of the town council after certification of the general election in which the mayor or town council member was elected. The term of office for mayor and council members shall expire four (4) calendar years hence after the start of the term. The term of office and assumption of the duties by the mayor-elect and council member-elect shall commence on said day upon the respective mayor-elect or council member-elect taking and subscribing to his or her oath of office.

In the event that the mayor or a council member is either appointed or elected by special election to fill a vacancy pursuant to the provisions of this Charter, he or she shall assume the office immediately upon taking and subscribing to the oath of office. The term of office for the mayor or member of the council appointed or elected by special election to fill a vacancy shall end on the same day that the person for whom he or she was appointed or elected to fill the term of office would have ended.

Forfeiture of office.

The mayor or a council member shall forfeit that office if the mayor or council member:

(a) Fails to meet and maintain all qualifications to hold office in the Town, or

(b) Violates any express prohibition of this Charter, or

(c) Is convicted of a crime involving moral turpitude, or

(d) Fails to attend three (3) consecutive regular meetings of the council without being excused by the council.

Judge of qualifications, election, and forfeiture.

The town council shall be the judge of the qualifications and election of its members and of the grounds for forfeiture of office, subject to review by the courts. In order to exercise these powers, the council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. The town council shall use the following procedure when forfeiture of office for one of its members is considered:

(a) Written notice, approved by the majority of the town council, must be delivered to the accused council member who shall have an opportunity to be heard and defend against the accusation.

(b) Subsequent to written notice being delivered to the accused, the council by an affirmative vote of the majority, shall have the authority to suspend a council member pending the disposition of charges for removal.

(c) Where a suspension of a council member occurs pursuant to this section of the charter, the suspended official shall have the right to an immediate hearing upon demand to determine if there is sufficient evidence to establish the following two elements:

(1) That probable cause exists to believe that the charges are true; and

(2) That, if true, the charges would be grounds for removal.

(d) The suspension hearing shall be held and the matter decided by the town council. The rules of procedure shall be the same as those which apply to the hearing for removal.

(e) If the town council does not find by an affirmative vote of the majority of the existing members of the council that are eligible to vote on the matter that the evidence produced at the hearing is sufficient to establish the aforementioned two elements, the suspension shall terminate immediately and the official shall be reinstated pending a final hearing on removal.

(f) A final hearing for removal must take place and a decision rendered within ninety (90) calendar days after receipt of the above-mentioned written notice unless both the town council, by affirmative vote of the majority of council members, and the accused agree to extend the time.

(g) In order for the town council to remove the accused official from office, the council must find that the substantial competent evidence presented at the hearing supports the charges which are the basis for the removal proceeding.

(h) A mayor or council members may only be removed from office by an affirmative vote of the majority of the existing membership eligible to vote for such action.

(i) If, after the final hearing, the town council is unable to support such a finding by an affirmative vote of the majority of the town council, any suspension of the accused shall terminate and the accused shall be reinstated to office for any unfinished portion of the official's term.

(j) The accused mayor or council member shall have the right to defend against the charges, has the right to present evidence and testimony, to cross-examine witnesses during any hearing regarding suspension or removal and to be represented by an attorney.

(k) The accused mayor or council member shall not be entitled to participate in the deliberations or decision in relation to the council member's suspension or removal.

Vacancies; filling vacancies on council.

(a) Vacancies. The office of mayor or council member shall become vacant upon the mayor or council member's death, resignation, or removal from office or forfeiture of office in any manner authorized by law.

(b) Filling of vacancies. Should a vacancy in the office of mayor or town council member occur when there is more than 2 weeks before the beginning of the qualifying period for the next regular election, then that vacancy will be filled for the unexpired term at the next regular election. If the vacancy occurs within 2 weeks before the beginning of the qualifying period for the next regular election, then the vacancy shall be filled by the town council within thirty (30) days of the date of the vacancy with any qualified resident appointed to serve for the unexpired term.

~~General elections shall be held in even numbered years on the date that would be established by the Florida Election Code. Elections shall be held on the date established by the Florida Election Code for the November general election; provided that the mayor and each councilman shall hold office until their respective successors are duly elected.~~

~~(a) — When two or more candidates are nominated for any elective office in the Town of Pierson, Florida then it shall be the duty of the town council of the Town of Pierson to call an election, to be participated in by the qualified electors of the Town.~~

~~(b) — Whenever a candidate in any election shall receive a plurality of all of the votes cast in the November general election, then that candidate shall be declared elected to the office in which he was nominated and receive a certificate of election. The elected candidate shall take office and assume elected duties on the date of the first town council meeting following the election.~~

Transition for Merger of Officers of Mayor and Council Chairman

The charter amendment implementing the merger of the offices of mayor and council chairman, and creating the office of vice mayor, ~~shall become~~ became effective for the November 2020 municipal election, at which the office of mayor ~~shall be~~ was filled for a four year term. Effective for the November 2020 municipal election, Town council Seat 5 ~~shall be eliminated~~ became the mayor's seat.

Section 5. [Rules of Conduct and Procedure.]

The council may enact rules of procedure and may prescribe penalties for the nonattendance or disorderly conduct of its members and enforce the same. The mayor shall chair the council, and he shall have power to enforce such rules as may be adopted by the council for their ~~government~~ governance and procedure. The council shall elect one of their number as vice mayor, who shall serve as mayor in the absence or disability of the mayor, and who shall serve as mayor upon a vacancy in the office of mayor until the next town general election, whereupon such vacancy shall be thereafter filled by election for the unexpired term, if any. A majority of the members of the council shall be necessary to constitute a quorum for the transaction of business, but a lesser number may ~~adjourn~~ convene from time to time, and under the provisions of ordinances

or rules of procedure, may compel the attendance of the absent members by imposition of fines and penalties. The council shall hold at least one (1) regular meeting each month.

~~Section 6. [Vacancies in Office.]~~

~~In case of a vacancy in any town office, the mayor, by and with the consent of a majority of the council, may appoint someone to fill the unexpired term.~~

Section 76. [Voters' Qualifications.]

That any person who shall possess the qualifications of an elector under the general laws of the State of Florida, and ~~shall reside~~ is a permanent resident within the territorial limits of the said town, and shall have registered in accordance with the ~~ordinances of said town~~ Volusia County Supervisor of Elections, shall be entitled to vote at any municipal election, except as hereinafter provided.

ARTICLE II. MUNICIPAL POWERS

~~Section 1. [Enumerated.]~~

~~The town council, within the limitations of this Act, shall have the power:~~

~~1st. — To make regulations to prevent the introduction and spread of infectious and contagious diseases into the town and to make quarantine laws for that purpose, and to enforce the same within five (5) miles of the town limits when the same are not in conflict with the quarantine laws and regulations of this state or of the United States; provided that this jurisdiction shall not extend over the territory of any other municipality.~~

~~2nd. — To have and exercise jurisdiction over the commission of all offenses against the public health, decency or morals, within said town, and within one (1) mile of the corporate limits of said town.~~

ARTICLE ~~III~~ II. MUNICIPAL ORGANIZATION AND OFFICERS

Section 1. Mayor - [Generally.]

~~The mayor shall have jurisdiction for the trial of all offenses against the town ordinances, and he or she shall see that all of the ordinances are faithfully executed. He or she shall have power by his or her warrant to have brought before him or her, any person or persons charged with the violation of any of the town ordinances, and to require the attendance of witnesses for the town and for the accused; to administer oaths; to take affidavits and inquire into the truth and falsity of all charges preferred; to decide upon the guilt or innocence of the accused and to fix the penalty and to enforce the same by sentence according to law; to pardon and release persons convicted by him or her, in term time or otherwise, by mandate in writing, to the marshal or other policeman; to have and exercise all the powers incident and usual to the due enforcement of his or her jurisdiction; he or she may appoint and discharge special policemen and detectives subject to the~~

approval of the town council at their next regular meeting; for special purposes when in his or her opinion the public good demands.

The mayor shall have general supervision over all town affairs, and shall report to the town council on all violations or neglect of duty on the part of the employees of the town that come to his or her knowledge. The mayor shall not have the authority to take actions inconsistent with the actions of the town council.

Section 2. [~~Same~~ Additional Powers.]

~~The mayor shall have power to suspend any officer or employee of the town, except councilmen, for misconduct in office, or neglect of duty, reporting his or her action in writing, with the reasons therefor, to the next regular meeting of the town council for its approval or disapproval, at which meeting the town council shall remove such officer or reinstate him, as to the council may seem proper. The mayor shall have general supervision over all town affairs, except the actions of the town council, and shall report to the town council on all violations or neglect of duty on the part of the employees of the town that come to his or her knowledge.~~

Section 3. [~~Town Council.~~]

~~The town council shall have the right and authority to appoint or employ a town marshal and policemen, to prescribe their duties and fix their salaries, by ordinance.~~

Section 4 2. [Town Clerk.]

The town council shall designate some person as town clerk, who shall keep a record of the proceedings of the town council, and do and perform such other and further duties as may be prescribed by the town council.

Section 5. [~~Salaries.~~]

~~The salaries of all officers of the town shall be fixed by ordinances.~~

Section 6. [~~Town Depository.~~]

~~The town council may select a bank or banks as a depository for the funds of the town, and may change same at will.~~

Section 7. [~~Powers of Council.~~]

~~The council shall have the power to create such other office or offices, and to provide by ordinance or resolution for the appointment of all such officers and employees as may, in its judgment, be necessary for the good government of the town. The council shall have power at any time to abolish any office created by it. The council shall have the power to prescribe the powers and duties of all officers and employees of the town except those powers and duties prescribed by~~

~~this Act. Employees of the town may be required to give such bond as the council may prescribe, and the town council may combine such offices as it may deem practical.~~

ARTICLE ~~IV~~ III. MISCELLANEOUS

Section 1. [Special Meetings; How Called.]

The mayor or any two (2) members of the town council may call special meetings of the council upon ~~at least three (3) hours' written~~ reasonable notice as required by law to each member; ~~served upon such member personally, or left at his usual place of residence.~~

Section 2. [General Laws to Apply.]

All general laws of the state applicable to municipal corporations, now or which hereafter may be enacted, and which are not in conflict with the provisions of this Charter, or with the ordinances and resolutions hereafter enacted by the town council, shall be applicable to this town; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the town council to enact any ordinances or resolutions not in conflict with the Constitution of the state, or with the express provisions of this Charter.

Section 3. [Conflicting Laws.]

All laws and parts of laws in conflict with the provisions of this Act hereby are repealed.

Section 4. [Charter Review.]

The Charter shall be reviewed by a Charter Review Committee at least every 10 years after the effective date of this provision. The Charter Review Committee shall be an advisory committee appointed and funded by the Pierson Town Council. The Charter Review Committee shall be appointed at least 18 months prior to the next scheduled general election and shall complete its work and present any recommendations for revisions to the Town Charter to the Town Council no later than 180 days before the general election.

Approved June 8, 1929

Amended by Ord. No. 2016-01, Ord. No. 2016-02 – November 8, 2016

Amended by Ord. No. 2020-03 – May 19, 2020