



# Punta Gorda

## FLORIDA

**HANDBOOK FOR  
CITY OF PUNTA GORDA  
ADVISORY BOARD MEMBERS**

**OFFICE OF THE CITY CLERK  
2022**

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CITY OF PUNTA GORDA

OFFICE OF THE CITY CLERK  
326 WEST MARION AVENUE  
PUNTA GORDA, FLORIDA 33950  
(941)575-3369  
pgclerk@CityofPuntaGordaFL.com

Dear Board Member:

You are an important part of the decision-making process in our City government. You may be responsible, for instance, for making recommendations to City Council regarding variances, zoning amendments or special exceptions or deciding the outcome of a Code Enforcement case, demolition permit or contractor complaint.

No matter how you look at it, it is a big job, but you will be rewarded with the satisfaction that comes from dedicated service to your community.

We have developed this Handbook to help make your job a little easier. Please read it carefully, and if your experience gives you some valuable hints which you think other board/committee members would enjoy knowing, we would be pleased to pass them along.

While there are many aspects of board service, I wish to stress the importance of familiarizing yourself with Florida's Sunshine Law ([see page 23](#)). My staff and I would be happy to address any of your questions or concerns.

Thank you for being a valued member of the team.

Sincerely,

Karen Smith, CMC  
City Clerk

## UNDERSTANDING YOUR CITY GOVERNMENT

The City of Punta Gorda has a Council-Manager form of government. Policy-making and legislative authority are vested in the governing Council, which consists of five Councilmembers who serve two-year, staggered terms. Each year, the sitting Councilmembers appoint one member to serve as Mayor and one to serve as Vice Mayor. The governing Council is responsible for, among other things, passing ordinances and resolutions, adopting the strategic plan and annual budget, addressing intergovernmental relations, being an advocate for community initiatives, appointing board and committee members and hiring the City Manager, City Clerk and City Attorney. All other City employees are hired by and under the purview of the City Manager.

The City Manager is responsible for carrying out the policies and ordinances adopted by Council, and for overseeing the day-to-day operations of the City. With a full-time staff of 291 positions, which equates to a ratio of 1.5 employees per 100 citizens, the City organization provides a full range of municipal services in the operating departments of Finance; Fire and Police; Public Works (including sanitation and canal maintenance); Utilities (water and wastewater); and divisions of Human Resources, Urban Design (planning, code compliance and building), and Information Technology.

The Mayor presides at all meetings of the City Council and is recognized by residents as the head of City government for ceremonial purposes, by the governor for purposes of military law, by the courts for service of process as well as execution of contracts, deeds and other documents and by other governmental agencies as the City official designated to represent the City in agreements. During the temporary absence from the City of the Mayor, the mayoral duties are exercised by the Vice Mayor.

The Council-Manager form of government is viewed as a way to take politics out of city administration. The City Manager is expected to abstain from political involvement, being solely and strictly a non-partisan, non-political administrator. Councilmembers are expected to refrain from intruding on the City Manager's role as chief executive. Of course, the City Manager who is hired and fired by the City Council, is subject to the authority of the Council; however, the Council members are expected to abstain from seeking to individually interfere in administrative matters, including the City Manager's actions in personnel matters.



## OUR MISSION

To preserve and enhance Punta Gorda's identity as a vibrant waterfront community, unique in character and history; and as a desirable place to live, work and visit.

## OUR VISION

Continue to preserve our small-town character while promoting diversity, economic development and sustainability.

## OUR VALUES

- Maintain a culture of community engagement, teamwork, partnerships, transparency, respect, customer service, and stewardship.
- Sustain pride in Punta Gorda's history and well-preserved historical areas and natural resources.
- Support and promote local businesses.
- Value a high level of openness, and the fair and equitable treatment of all residents.
- Ensure an ethical, transparent and accountable city government.

## OUR STRATEGIC PRIORITIES

- Financial/Economic Sustainability
- Infrastructure Sustainability
- Partnerships, Communication and Collaboration
- Strategic Communications Positioning
- Quality of Life

## HOW BOARDS AND COMMITTEES WORK

Punta Gorda's citizenry have long been active participants in City government. One way citizens participate is through membership on a City board, which includes committees and commissions.

Boards and Committees are created by ordinance or State Statute to provide advice and recommendations to staff and the City Council (through staff) or, in some cases, to make final decisions on certain matters. Each board is composed of appointed citizen members who volunteer their services. Every Board has a stated purpose that fits into the framework of City government and provides a link between the citizenry and elected officials.

City boards typically meet monthly or quarterly. Meetings are held on the same day and time (i.e., the third Thursday of the month at 9:00 a.m.).

The duties and responsibilities of each City board are outlined in a set of bylaws and/or within a Chapter of City Code. Once appointed, it is the responsibility of each member to secure an appointment with the City Clerk's Office for required training on the board's bylaws and this handbook and to abide by them in carrying out their duties. Members are also responsible for reading agenda material in advance of meetings in order to be prepared to make meaningful contributions to discussions, make and second motions or take other appropriate actions.

Board members should have:

- The expertise or interest to accomplish the Board/Committee objectives.
- A reputation for integrity and community service.
- Sufficient time for preparation and attendance at meetings.

Participation on certain boards requires filing a financial disclosure form, also known as a Form 1 (as noted in the Current Boards and Committees list). The requirement for filing a Form 1 is determined by the State of Florida Commission on Ethics. According to the Commission, *"Financial disclosure is required of public officials and employees because it enables the public to evaluate potential conflicts of interest, deters corruption, and increases public confidence in government."*

Additional information on the roles of board members, including the chair, staff member duties and other pertinent guidance is provided further on within this handbook.

### CURRENT BOARDS AND COMMITTEES

**Board of Zoning Appeals:** Recommends to City Council approval or denial of variances to the zoning code; hears appeals from administrative rulings of Zoning Official. Form 1 Financial Disclosure Required.

Meetings: 4<sup>th</sup> Tuesday each month at 4:00 p.m. in Council Chambers.

Board Secretary: Sammy Sorrentino, Urban Design Executive Assistant, (941)575-3397

Board Liaison: Lisa Hannon, Zoning Official, (941)575-3314

**Building Board:** Hears complaints regarding alleged contractor violations of City Code and takes appropriate action; makes recommendations for amendments to State and City Building Codes; acts as condemnation Board; hears appeals from rulings of the Building Official; hears contests of false alarm or fee assessments.

Meetings: 4<sup>th</sup> Tuesday each month at 9:00 a.m. in Council Chambers.

Board Secretary: Suz Russell, Building License & Permit Supervisor, (941)575-3362

Board Liaison: Kathleen Croteau, Chief Building Official, (941)575-3344

**Burnt Store Isles (BSI) Canal Advisory Committee:** Makes recommendations to City Council on matters concerning functions of the BSI Canal Maintenance Assessment District; holds public hearings on petitions for special permits in BSI; hears comments and concerns from residents related to canal system enforcement issues. Form 1 Financial Disclosure Required.

Meetings: 2<sup>nd</sup> Tuesday each month at 1:30 p.m. in Council Chambers.

Board Secretary: Laurel Adelmund, Public Works Executive Assistant, (941)575-5050

Board Liaison: Cathy Miller, Canal Maintenance Supervisor, (941)575-5071

**Code Enforcement Board:** Hears alleged violations of City Codes and takes appropriate action. Form 1 Financial Disclosure Required.

Meetings: 4<sup>th</sup> Wednesday each month at 9:00 a.m. in Council Chambers.

Board Secretary: Ashley Omelanski-Carney, Executive Assistant, (941)575-3352

Board Liaison: David McCarty, Code Compliance Supervisor, (941)575-3381

**Donation Review Committee:** Reviews all non-monetary gift donation proposals/letters of intent received by the City and makes recommendations to City Council for acceptance or rejection of donations.

Meetings: 4<sup>th</sup> Thursday of January, April, July and October, or as needed, 10:00 a.m./immediately following Historic Preservation Advisory Board meetings in Council Chambers.

Board Secretary: Sammy Sorrentino, Urban Design Executive Assistant, (941)575-3397

Board Liaison: Mitchell Austin, Urban Design Planner, (941)575-3335

**Historic Preservation Advisory Board:** Identifies historically significant structures and sites and nominates same for recognition; recommends to City Council establishment of historic districts, designation of historic landmarks and holds public hearings; promotes public awareness of historic preservation benefits.

Meetings: 4<sup>th</sup> Thursday each month at 9:00 a.m. in Council Chambers.

Board Secretary: Sammy Sorrentino, Urban Design Executive Assistant, (941)575-3397

Board Liaison: Mitchell Austin, Urban Design Planner, (941)575-3335

**Pension Boards:** Police Officers', Firefighters' and General Employees' Pension Boards. Charged with management of respective Funds. Form 1 Financial Disclosure Required.

Meetings: Quarterly and as called in Council Chambers.

Board Secretary/Board Liaison: Firefighters – John Briggs, (941)575-5529; General Employees and Police – Ferrell Jenne, Foster & Foster, (239)433-5500

**Planning Commission:** Makes recommendations to City Council with regard to, but not limited to, special exceptions, re-zonings, Comprehensive Plan amendments, platting or subdividing, adopting or amending zoning ordinances. Form 1 Financial Disclosure Required.

Meetings: 4<sup>th</sup> Monday each month at 2:00 p.m. in Council Chambers.

Board Secretary: Sammy Sorrentino, Urban Design Executive Assistant, (941)575-3397

Board Liaison: Lisa Hannon, Zoning Official, (941)575-3314

**Punta Gorda Isles (PGI) Canal Advisory Committee:** Makes recommendations to City Council on matters concerning functions of the PGI Canal Maintenance Assessment District; holds public hearings on petitions for special permits in PGI; hears comments and concerns from residents related to canal system enforcement issues. Form 1 Financial Disclosure Required.

Meetings: 3<sup>rd</sup> Monday each month at 1:30 p.m. in Council Chambers.

Board Secretary: Laurel Adelmund, Public Works Executive Assistant, (941)575-5050

Board Liaison: Cathy Miller, Canal Maintenance Supervisor, (941)575-5071

**Utility Advisory Board:** Makes recommendations to City Council for service area expansions or modifications; proposed ordinances, resolutions and interlocal agreements; revisions to utility construction standards; reviews utility drawings and specifications.

Meetings: 4<sup>th</sup> Monday each month at 9:00 a.m. in Council Chambers.

Board Secretary: Leslie Silva, Executive Assistant, (941)575-3331

Board Liaison: Neil Peters, Utilities Director, (941)575-5055

## CHARACTERISTICS OF AN EFFECTIVE BOARD

Every Board has a stated purpose that fits into the framework of City government and provides a link between the citizenry and elected officials. An understanding of the City with a focus on the specific responsibilities of an individual Board, its members and supporting staff is necessary for an effective process.

- Board members accept other board members with due appreciation of their strengths coupled with tolerance of any quirks or weaknesses.
- Advisory boards are rooted in an important tradition and provide continuity for City projects which have been, and continue to be, important.
- The attitude of the board is forward-looking and is based on a confident expectation of growth and development.
- There is a clear definition of responsibilities, so members know what is expected of them.
- Members communicate easily with one another during meetings.
- There is a sense the whole board is more important than any one of its parts.
- There is a capacity to resolve dissent/discord or, if it cannot be resolved, to keep it in perspective in terms of larger purposes.
- Individuals who come before a board are treated with respect regardless of their comments and manner.

## OFFICERS

Each Board shall elect a chair and vice chair who shall be elected annually by a majority vote of members in attendance at the February meeting or as soon thereafter as possible. Staff from the City Clerk's Office will administer the election if requested. Please refer to the Board bylaws or appropriate City Code regarding term limits for officers.

The chair shall serve as the presiding officer at all meetings. The vice chair shall serve in the absence of the chair. Should the vice chair and chair be absent, and a quorum is present, a temporary presiding officer shall be selected by consensus of members in attendance.

A member of the City Clerk's Office will provide an introduction to the policies and procedures the chair and vice chair should understand prior to the election, with additional training provided following the election.

## RULES OF CONDUCT

The City's adopted rules of conduct for board members are the same as those for City Council and are as follows:

- Respect each person
- Share responsibility
- Criticize only ideas, not people
- Keep an open mind
- Question and participate
- Attend all meetings
- Listen constructively

## THE CHAIR'S ROLE

- The chair is present before a meeting begins. Prior to the start of the meeting the chair should request that all electronic devices be silenced. When a quorum is present, the chair calls the meeting to order at the prescribed time with a rap of the gavel and announces, "Welcome to the (date) meeting of the (name of the board)."
- The chair has the responsibility to determine whether a quorum is present. A quorum is the presence of a majority of the entire membership of the board and is a pre-established number. For a membership of five, three members are required for a quorum. For a membership of seven, four members are required for a quorum. See [Quorum](#) (page 10) for more information. Note: Alternate members are not counted when determining total membership.
- The chair maintains order, remains fair and impartial at all times and is the host of the assembly. As the host, the chair is familiar with all meeting procedures ([see page 10](#)).
- If a request is made to reorder the agenda, the chair should determine if there is a consensus to do so. Ideally, changes to the order of items are announced at the beginning of the meeting.
- The chair places business on the floor by reading the title of each agenda item into the record and ensures discussion stays focused and does not become repetitive. If discussion becomes repetitive, the chair should refocus discussion on remaining areas to be addressed or ask if members are ready to make a motion.
- The chair should determine when it is appropriate to read out the procedure for public comment ([see page 13](#)), such as when there is a large crowd present and/or matters coming before the board are controversial in nature. The chair sets time limits on public comment per City Council policy and reminds members of the public that questions will not be answered during the public comment period. Use of an electronic timer provided is required in order to give all speakers an equal opportunity to address the board.
- In the case of unruly or disorderly behavior by any board member, speaker or audience member, the chair should preserve order and decorum by requesting the individual be courteous in their language and presentation. If the individual fails to comply, it is the chair's responsibility to request the individual leave the meeting.
- If order cannot be maintained, the chair shall recess the meeting temporarily so that order can be restored. Staff will then contact the police if necessary for removal of any individuals who refuse to maintain order or leave.
- Side bar conversations (regarding board business) between members during a meeting are a violation of the Sunshine Law and are prohibited. All comments must be made on the record. It is the chair's responsibility to terminate side bar conversations.
- The chair may guide the wording of motions and should re-state motions in proper form but may not make or second motions. In order to make a motion, the chair must turn the gavel over to the vice chair and cede chairship of the meeting.
- The chair calls for the vote (first those in favor - and then those opposed) and announces the outcome. The chair must always call for both those in favor and those opposed the motion to be sure the correct outcome is able to be recorded.
- The chair votes on all issues before the board unless the chair has a conflict of interest which meets statutory requirements. Such conflict must be disclosed according to statutory requirements provided later in this Handbook.
- The chair is also a member of the board and as such adheres to all rules and responsibilities of members as outlined in this handbook.
- Refer to yourself as chair or in the third person. The chair must be kept impersonal as the symbol of the assembly's authority representing each member.

## BOARD MEMBERS' ROLE

The duties and responsibilities of each board are outlined in its bylaws or within Punta Gorda Code. All members are responsible for reading and understanding the board's bylaws, mission and goals. Members are also responsible for reading the agenda material in advance of each meeting in order to be prepared to make meaningful contributions to discussions, make and second motions or take other appropriate actions. New board members are encouraged to review previous agendas and meeting minutes to learn more about current topics being discussed (available at [www.ci.punta-gorda.fl.us](http://www.ci.punta-gorda.fl.us)).

Board members are required to set up an appointment to take the oath of office prior to serving on the board. During the appointment, the City Clerk's Office will provide an introduction to important policies and procedures the member should understand.

Board members are encouraged to speak with staff prior to meetings to ask questions or request additional background information on agenda items, if needed. Members are encouraged to ask questions regarding non-agenda issues before or after, not during, a meeting.

Members listen respectfully to fellow members, staff, applicants and the public. Members should signal the chair - then wait to be recognized before speaking.

Board members refer to the chair by title (Mister Chair or Madam Chair) and not by name.

Comments and discussions should be focused on the agenda item at hand. All comments made during a public meeting are on the record and must be spoken clearly and audibly into the microphone. Sidebar conversations regarding board business are a violation of the Sunshine Law and are prohibited. Swearing/profanity during a public meeting is unacceptable.

Board members make and vote on all motions except in those instances where a conflict of interest exists. Conflicts of interest for advisory board members are rare. However, should such an occasion arise, members must disclose their conflict during the public meeting prior to discussion of the particular agenda item and file the required form with the City Clerk. [See page 27](#) for more detailed information.

Board members should advise staff as far in advance as possible of an expected absence to allow staff to determine if a quorum of members will be available.

There is acceptance of and conformity to the City's Rules of Conduct ([see page 6](#)), which were adopted by City Council in 1996 and re-adopted annually beginning in 2019, as well as adherence to the City's Facility Rules (see Exhibit D) which were adopted in 2020.

## ALTERNATE MEMBERS' ROLE

Alternate members should make themselves familiar with the chair and board members roles, meeting procedures and other information in this Handbook. Newly appointed alternate members are also encouraged to review recent meeting minutes and agendas prior to their first meeting, all of which are available at [www.ci.punta-gorda.fl.us](http://www.ci.punta-gorda.fl.us).

Alternate board members are encouraged to attend all meetings to remain up to date on current issues in order to step in and actively participate in discussions when necessary. Alternate members should contact the Board Secretary if unable to attend.

Alternate members may not vote on any agenda item unless seated at the dais in place of an absent member.

Alternate members take turns sitting in for absent members. Staff will contact alternate members to advise them of the need for their attendance in the case of a regular member's absence.

Alternate board members will be provided opportunities to seek appointment to a regular member's seat, if desired, when such vacancies arise. All appointments are at the discretion and determination of City Council.

## CITY STAFF

The City Clerk's Office will provide an orientation and educational materials to new board members and the Clerk or Deputy Clerk will administer the oath of office. City Clerk's staff will send reminders to members regarding term expiration dates and eligibility for nomination for reappointment.

The City provides a Recording Secretary who sets up the meeting room, takes and tracks attendance, records the meeting, provides guidance on meeting procedures and produces minutes. The City has adopted an "action" minutes format, which is intended to provide an accurate but brief reflection of the spirit and intent of the meeting. Lengthy summaries of most board member comments/discussions do not appear in the minutes.

Each board has one or more staff members/board liaisons who may provide technical assistance, present agenda items and/or provide reports. During each meeting, staff will explain/present agenda items and make recommendations with supporting rationale as appropriate. Each board also has a Board Secretary who creates and distributes an agenda which serves as the meeting notice for the public and contains materials and/or background information for each item.

## BOARD-STAFF RELATIONSHIP

Each of the City's volunteer boards is supported by City staff members. Boards are successful when members and staff each have a clear understanding of the board's purpose and a willingness to work together to achieve its goals. Strong, positive relationships between board and staff members are essential.

Board members and staff have different responsibilities. Board members take action and/or make recommendations to City Council by holding discussions which are focused on agenda items. Staff members provide technical and administrative assistance to the board. Boards have no authority over and thus cannot direct staff but may recommend such direction be provided by the City Manager.

The roles and responsibilities listed above are common to all boards and should be used as a guide in board-staff relationships. Together, board and staff members know and practice meeting procedures and come to each meeting prepared to discuss agenda items.

# MEETING PROCEDURES

While the City has not adopted Robert's Rules of Order and therefore does not strictly adhere to those rules, they have provided certain guiding principles in the development of the City's meeting procedures.

The following basic board meeting protocol is to be followed:

- Only one person speaks at a time.
- The speaker shall be recognized by the chair before speaking.
- Comments are confined to the current issue, **with repetition avoided**.
- Discussion should alternate between pro and con arguments.
- No lengthy papers should be read during the meeting.
- No sidebar conversations between members (Sunshine Law violation).
- No verbal attacks of other members or members of the audience.
- Rules should be respected and obeyed.

## QUORUMS

A quorum of members is required in order to hold a meeting. If a quorum is not present, the board can only take the following limited procedural actions:

- Fix the time to which to adjourn
- Adjourn
- Recess
- Take measures to obtain a quorum, such as a motion that absent members be contacted during a recess.

Any other business conducted without a quorum is not valid. Typically when a quorum is not present, the meeting is adjourned following roll call.

## AGENDAS

Staff schedules all meetings on behalf of the board and creates and distributes agendas. City Council has adopted a policy regarding non-agenda items to ensure the public can participate in agenda item discussions and decisions ([see page 32](#)). Per this policy, no items may be added to an agenda after it is published. Instead, members may request an item be added to a future agenda, with the chair determining if there is consensus of members to do so during a public meeting. The agenda, posted on the City's website, serves as public notice of the meeting. All meetings shall be held in City Council Chambers unless otherwise approved by the City Clerk. All meetings are recorded and live-streamed on YouTube and the City's website.

Meetings are governed by the agenda, which constitutes the roadmap for the meeting. The sections included in an agenda vary somewhat among boards. Following is a generalized guide indicating how the chair should handle an agenda.

### I. Call to Order

*The chair calls meeting to order with a rap of the gavel.*

### II. Roll Call

*The chair announces all members are present except for any who are absent. Any alternates seated at the dais should be announced as well.*



### III. Public Comment

*The chair reviews the procedure for public comment when appropriate and then opens the floor for public comment on all items except for public hearings.*

*Note: Members of the public are given 3 minutes each to address the board. This period is for comments only; it is not a question and answer period and members are discouraged from answering questions or debating issues with the public.*

### IV. Approval of Minutes

*The chair requests a motion to approve the minutes.*

### V. Public Hearings

*Procedures for Quasi-Judicial Public Hearings can be found [starting on page 17](#) of this Handbook. Comments on quasi-judicial public hearings should be heard following presentations by staff and the applicant and **must** be heard prior to any decision being made.*

- 1) Staff – up to 30-minute presentation.*
- 2) Applicant – up to 30-minute presentation.*
- 3) Intervenor (if appropriate) – up to 30 minute presentation.*
- 4) Public – up to 3 minutes per person.*

*For legislative public hearings, follow the basic format for agenda item discussion below.*

### VI. Reports

*The chair requests staff present each report included on the agenda.*

### VII. General Business

*The chair introduces each item.*

### VIII. Staff Comments

*The chair questions if staff has any comments.*

### IX. Member Comments

*The chair questions if members have any comments or would like to bring up new topics for inclusion on future agendas. The chair may also make comments and suggest agenda items.*

### X. Adjournment

*The chair shall adjourn the meeting with an announcement and a rap of the gavel. No motion is necessary.*

## BASIC FORMAT FOR AGENDA ITEM DISCUSSION

Each agenda item should be handled by the chair in the following basic format, except for quasi-judicial ([see page 17](#) for required procedures) and legislative public hearings:

**First**, announce the agenda item and explain the format that will be followed in handling the item. Focus the board by drawing attention to the recommended action on the item's cover sheet. If necessary, ask staff to explain the purpose of the item.

**Second**, invite staff to provide information and any recommendations they may have for the item. Ask members if they have any clarifying questions of staff.

**Third**, invite the applicant/representative (if applicable) to provide a presentation on the agenda item. Ask members if they have any clarifying questions of the person(s) who reported on the item.

**Fourth**, open the floor for discussion. If discussion becomes repetitive, refocus members on remaining areas to be addressed.

**Fifth**, once discussion has concluded, proceed to the next item, determine if there is consensus of the board or call for a motion as necessary. If the motion is not seconded, announce the motion has died for lack of a second and, if a motion is required, request an alternative motion be made.

**Sixth**, after a motion has been seconded, restate the motion and invite discussion by the board. Once discussion has ended, or if there is no discussion, the chair should restate the motion a final time and call for a vote. Ask those in favor of the motion to signal so by saying, “aye,” and then those who are against to signal so by saying, “nay.” A roll call vote is not required unless clarification of the vote is needed.

**Seventh**, announce the result of the vote – whether the motion carries or is defeated – and what action the board has taken. For example, “*The motion carries, 5 to 2,*” or, “*motion carried unanimously,*” or perhaps, “*the motion has failed with a vote of 2 to 5.*” If the vote is tied, the motion fails. An alternative motion may be necessary.

The Chair should adhere as close as possible to this format. Meetings that are run consistently are easier for members of the board to participate in and are more transparent to members of the public.

## LEGISLATIVE PUBLIC HEARING FORMAT

Following is the format to be used for legislative public hearings.

**First**, read the title of the public hearing (the full agenda item title) and explain the format that will be followed in handling the item.

**Second**, invite staff to provide a 30-minute presentation and any recommendations they may have for the item. Ask members if they have any clarifying questions of staff.

**Third**, invite the applicant/representative (if applicable) to provide a 30-minute presentation on the agenda item. Ask members if they have any clarifying questions of the person(s) who reported on the item.

**Fourth**, review the public comment procedure if needed and open the floor for public comment, calling at least three times for individuals to speak and until no further individuals come forward. Each member of the public is limited to 3 minutes of time to speak and a timer must be used to ensure all speakers are given an equal opportunity to comment. At the conclusion of the public comments, call for a motion to close the public hearing, take a vote on the motion and announce the result of the vote.

**Fifth**, open the floor for discussion among members. If discussion becomes repetitive, refocus members on remaining areas to be addressed.

**Sixth**, once discussion has concluded, call for a motion. If the motion is not seconded, announce the motion has died for lack of a second and request an alternative motion be made.

**Seventh**, after a motion has been seconded, restate the motion and invite discussion of the motion by the board. Once discussion has ended, or if there is no discussion, the chair should restate the motion a final time and call for a vote. Ask those in favor of the motion to signal so by saying, “aye,” and then those who are against to signal so by saying, “nay.” A roll call vote is not required unless clarification of the vote is needed.

**Eighth**, announce the result of the vote – whether the motion carries or is defeated – and what action the board has taken. For example, “*The motion carries, 5 to 2,*” or, “*motion carried unanimously,*” or perhaps, “*the motion has failed with a vote of 2 to 5.*” If the vote is tied, the motion fails. An alternative motion is necessary.

Adherence to this format is important for the validity of the proceedings and ensures due process for applicants and an opportunity for the public to be heard.

## PROCEDURE FOR PUBLIC COMMENT

The chair should read out the following bulleted procedure for public comment in instances where there is a large crowd and/or an item is controversial in nature:

- Members of the public who wish to address the board should form an orderly line at the guest podium and be ready to approach the podium when it is their turn to speak. During their turn, they should speak directly into the microphone and begin by stating their name for the record.
- Each person has three minutes to speak - sharing minutes is not permitted.
- Speakers are to direct all comments to the Board/Committee/Commission, not to any one individual board member nor to the audience. Discussion between speakers and members of the audience is not allowed.
- Speakers should not reiterate lengthy comments made by others, particularly when many individuals wish to be heard. Instead, please acknowledge the prior comment and only provide additional content.
- Derogatory comments or personal attacks towards board members will not be tolerated. When such comments are made, the speaker loses their right to speak, will be told they are out of order and asked to sit down.
- Audience and speakers will be courteous in their language and presentation - no applause or booing before, during or after each speaker. Individuals who willfully interrupt or disturb a lawful City meeting may be asked to leave, removed if they fail to maintain order or found guilty of a misdemeanor of the second degree and arrested by police officers present pursuant to State Statute 871.01.
- The public comment period is not a question and answer session. The purpose of this period is to allow board members to take the views of the public into consideration.
- A copy of any supporting documents displayed during the meeting must be provided to the Recording Secretary. These documents will become part of the permanent record and will be retained by the City Clerk's Office.

Members should keep in mind there is no legal requirement to respond to or answer questions during public comment. In fact, doing so is discouraged as it is difficult to express the board and/or City's position accurately under such circumstances and exchanges can become lengthy or heated.

This section is intended to be a brief overview of this topic. For more information refer to Exhibit A for City Council Resolution 3224-16, which adopts procedures to comply with [Florida Statutes Section 286.0114](#) regarding public input at public meetings.

# INTRODUCTION TO PARLIAMENTARY PROCEDURE

The following parliamentary procedure is built on a foundation supported by the following four pillars:

1. **Establishing order.** The first purpose of rules of parliamentary procedure is to establish a framework for the orderly conduct of meetings.
2. **Providing clarity.** Simple rules lead to wider understanding and participation, while complex rules create opacity and can foster a fear of participation in those who do not fully understand them.
3. **User-friendliness.** The rules must be simple enough that the public is invited into the body and feels that it has participated in the process.
4. **Enforcing the will of the majority while protecting the rights of the minority.** The ultimate purpose of rules of procedure is to encourage discussion and to facilitate decision making by the body. In a democracy, it is the majority that rules. The rules must enable the majority to express itself and fashion a result, while permitting the minority to also express itself, but not dominate, while fully participating in the process.

The rules of parliamentary law are constructed upon a balance of the rights:

- of the majority,
- of the minority, especially a strong minority greater than one third,
- of individual members,
- of absentees, and
- of all these together.

## BASIC PARLIAMENTARY PROCEDURE

While all members of the board should know and understand the rules of these parliamentary procedures, it is the chair of the board who is charged with applying the rules of conduct of the meeting and who should be well versed in those rules. It is up to the chair to ensure order at the meeting, to keep track of proper motion-making processes and to steward the discussion of items according to the agenda. The chair should allow each member of the board the opportunity to fully participate.

The chair must also guide public participation. To facilitate the public's understanding of the meeting, the chair should:

1. Tell the public what the board will be doing.
2. Keep the public informed while the board is proceeding with the item.
3. Tell the public the result of any action taken by the Board.

### Making a Motion

Motions signal a desire to take a specific action, such as making a recommendation to City Council or to close a public hearing. There are seven steps in making a motion:

1. Member asks to be recognized: "Mister/Madam Chair."
2. Chair recognizes the member: "Mr. Jones."
3. Member states motion: "I move that the application be approved."
4. Another member, without waiting to be recognized, seconds the motion: "I second the motion."
5. The chair repeats the motion and calls for discussion: "It has been moved and seconded that the application be approved. Is there any discussion?"

**Note:** The chair has the right to impose a time limit on discussion and may ask speakers to conclude their point or only speak if they have new thoughts on the topic; repetition is not necessary nor useful. If repetitive comments are made, the chair should refocus discussion on remaining areas to be addressed or ask if members are ready to make a motion.

6. After discussion, the chair puts the motion to a vote: “If there is no further discussion, we are ready to vote. All those in favor of the application being approved signal so by saying ‘aye.’” Then the chair says: “Those opposed signal by saying ‘nay.’”
7. The chair counts the votes and announces the outcome: If the vote is not unanimous, the chair may ask for a show of hands to ensure the Recording Secretary is able to capture an accurate record of the board’s action.

Please note motions require a second, or else they die. They may also die after a lengthy period of discussion if no one seconds or if there is no vote on the motion. If a motion does not receive a majority of votes in favor of the motion, then the motion fails and a member from the prevailing side may make a new motion or request the failed motion be reconsidered. Motions which result in a tie vote fail as well; however, any member may make a subsequent motion or ask for the failed motion to be reconsidered after further discussion as there is no prevailing side.

### Amending a Motion

An amendment to a motion is made by following the same seven steps listed above. Once the member is recognized by the chair, he states his amending motion by saying how he wants to change the first, or main, motion. A vote must be taken on an amendment and, if the amendment passes, a final vote on the motion as amended is taken. Below is a chart outlining the three ways a motion can be amended.

Type of Amendment	Explanation	Example
<b>Addition</b>	New words are added to the motion.	“I move to amend the motion by adding ‘subject to review’ after ‘approved.’”
<b>Deletion</b>	Words are removed from the motion.	“I move to amend the motion by removing the word ‘legal’ so that the motion states, ‘subject to review.’”
<b>Substitution</b>	Substituting new words for part of the motion’s wording.	“I move to amend the motion by substituting ‘staff’ for ‘legal.’”

Only two amendments may be offered as motions before one of them must be voted upon, and they are voted upon in order, beginning with the last motion made. For example:

1. A main motion is made and seconded. (“I move that...”)
2. After the chair restates the motion, the first amendment is offered. (“I move to amend the motion by adding...”)
3. The second amendment is offered. (“I move to amend the amendment by substituting...”)
4. A vote is taken on the second amendment after members are given an opportunity for discussion.
5. If the second amendment passes, it is incorporated into the first amendment. Following discussion, a vote is taken on the first amendment.
6. The chair restates the main motion, incorporating the amendments if they have passed, and asks for discussion. At this point, up to two more amendments may be made or a vote may be taken on the main motion.

## Counting Votes

Voting may be done in any one of three ways:

- By a voice vote: “Those in favor, say ‘aye.’”
- By a show of hands: “Those in favor raise your right hand.”
- By a written ballot.

If any member feels a voice vote cannot be decided accurately, he may ask for a “division.” Then the chair shall ask for a show of hands. The Recording Secretary may also ask for clarification of a vote. Additionally, those who vote against a motion in a quasi-judicial public hearing are required state their reasons for doing so.

## Types of Motions

Below are some less common motions and their actions.

Motion	Action
<b>Move to amend</b>	Changes the language of the motion currently being discussed. If passed, the amended motion requires discussion and a vote.
<b>Move to table</b>	Lays the item of discussion aside temporarily; must be taken from table at that or the next meeting.
<b>Move to take from the table</b>	Brings back a tabled item for consideration.
<b>Motion to postpone</b>	Puts off consideration to the specified date or indefinitely.
<b>Move to reconsider</b>	Brings a question up after it has been adopted or rejected at the same meeting the initial action was taken.
<b>Move to rescind</b>	Strikes down a motion passed at a previous meeting. Approval requires a majority vote of two-thirds.
<b>Move to extend/limit debate</b>	Sets time to be spent on matter before assembly, either by setting a time allowed for each speaker or by indicating a time in which to discontinue further discussion. Approval requires a majority vote of two-thirds.
<b>Call the question</b>	Ends debate and requires a vote be taken immediately. This motion requires a majority of two-thirds in order to pass.
<b>Rise to question of privilege</b>	Deals with rights and comforts of members and the assembly, such as difficulty hearing the discussion or uncomfortable temperature in the meeting room. A second is <i>not</i> required.

## Maintaining Order

In an ideal circumstance, all parties act with decorum so that the matter at hand can be discussed fully; however, certain topics may result in discussions or comments becoming passionate. If a board member, speaker or audience member becomes unruly or disorderly and impedes discussion or action being taken, the chair must rap the gavel and request the individual(s) be courteous in their language and presentation and to refrain from speaking out of turn or from the audience. If behavior does not improve, the chair must rap the gavel again and request the individual leave the meeting. The meeting should be recessed temporarily if the individual refuses to leave and behavior does not improve. Staff may then request police support as willfully interrupting/disturbing a public meeting is a misdemeanor of the second degree which may result in the individual's arrest.



# QUASI-JUDICIAL HEARING PROCEDURES AND RULES FOR EX PARTE COMMUNICATIONS

(ADOPTED BY RESOLUTION #3673-2022)

## I. INTRODUCTION

The City Council, its Boards, Committees and Commissions make two types of decisions, "legislative" and "quasi-judicial". Legislative decisions involve policy formulation and are made in the sound discretion of the policy-maker. Quasi-judicial decisions, on the other hand, must be based upon the application of reliable facts to pre-established criteria. When making a quasi-judicial decision, the City Council, its Boards, Committees and Commissions act like the judge of a trial where fairness, impartiality, and due process are afforded to all parties. Quasi-judicial decisions are to be made following hearings where evidence and testimony is presented. Quasi-judicial decisions must be based solely upon the evidence and testimony presented at such hearings and in consideration of the pre-established criteria

## II. SCOPE AND APPLICABILITY

These procedures shall apply to all quasi-judicial hearings held by the City Council or by any Board, Committee or Commission (hereinafter "Board") which hold quasi-judicial hearings. If asked, the City Attorney shall advise the Board which matters are quasi-judicial in nature and shall advise the City Clerk or Board secretary to designate specially such matters on the agenda. As used in this document, the term "Application" shall include appeals, and the term "Applicant" shall include any person initiating an appeal of Board action. The term "Party" shall include City Staff; the Applicant, and any Intervenor. The terms "Applicant", "City Staff", and "Intervenor" shall include any representative thereof.

## III. PROCEEDINGS

Mayor, Vice Mayor, Chairman or other presiding officer (hereinafter "Presiding Officer") shall conduct the proceedings and maintain order. The City Attorney or Board Attorney shall represent the City Council or Boards, offer advice on rulings pertaining to all evidentiary and procedural issues and objections, and advise the City Council or Boards as to the applicable law and necessary factual findings. Hearings shall be conducted informally, but with decorum. Formal rules of procedure shall not apply except as set forth herein; however, fundamental due process shall be accorded.

## IV. UNAUTHORIZED COMMUNICATIONS

In all quasi-judicial hearings, all rulings must be based only upon competent, substantial evidence presented at the hearing. Competent, substantial evidence is defined as relevant and material evidence that a reasonable mind would accept as adequate to support the conclusions reached. In accordance with Section 286.0115(1), Florida Statutes, ex parte communications, i.e., verbal or written communications made outside of the hearing, received by City Council or Board members in quasi-judicial matters is permissible, but may not form the basis of any decisions. The adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with City Council or Board members:

1. The substance of any ex parte communication with a City Council or Board member which relates to a quasi-judicial action pending before the Council or Board is not presumed prejudicial to the action **IF** the subject of the communication **AND** the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record **BEFORE** the final action on the matter.
2. A City Council or Board member may read a written communication from any person. However, a written communication that relates to a quasi-judicial action pending before the Council or Board shall not be presumed prejudicial to the action, and such written communication

shall be made a part of the record before final action on the matter. Such written communication, however, is considered to be hearsay and may not be the basis of any decision.

3. City Council or Board members may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter. The expert opinion, however, may not form the basis of any decision unless the expert attends the public hearing and is available for cross-examination by all interested parties.

4. Disclosure made pursuant to subparagraphs 1, 2 and 3 must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.

5. Pursuant to the provisions of Section 286.0115(1)(c), Florida Statutes, in a quasi-judicial proceeding on land use matters conducted pursuant to Chapter 26, Punta Gorda Code, no person shall be precluded from communicating directly with a member of the decision making body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decision making body **is not required**, and such nondisclosure shall not be presumed prejudicial to the decision of the decision making body.

## V. WITNESSES AND SUPPORTING MATERIALS

1. City Staff shall prepare a report, recommendation and supporting materials, a copy of which shall be available to the Applicant and to the public at the City Clerk's Office. Included in the supporting materials will be copies of all exhibits and documents upon which City Staff's recommendation is based.

2. The Applicant shall submit a detailed outline of the argument in support of its application, copies of all exhibits which will be presented at hearing and the names of all witnesses who will be called to testify in support of the application (including resumes for any witness the party intends to qualify as an expert).

## VI. PARTY INTERVENORS

The Presiding Officer may allow a person to intervene as a Party Intervenor if they meet the following requirements:

1. The person must have an interest in the application, which is different than the public at large.

2. At least seven (7) business days prior to the hearing, the person shall submit a written request to intervene including: a detailed outline of their interest in the application and argument in favor or against it, copies of all exhibits which will be presented at the hearing and the names and addresses of all witnesses who will be called to testify on their behalf (including resumes for any witness the person intends to qualify as an expert).

## VII. CONDUCT OF HEARING

1. The Presiding Officer shall call the proceeding to order and announce that the hearing has begun. The Presiding Officer may extend any of the following time limits should the Presiding Officer determine that such extension is necessary to afford a fair presentation of the case.

2. The City Clerk or staff liaison shall swear in all witnesses who are to testify at the hearing.

3. The order of proof shall be as follows:

a. City Staff shall briefly describe the Applicant's request, introduce and review all relevant exhibits and evidence, report City Staff's recommendation, and present any testimony in support of City Staff's recommendation. City Staff shall have a maximum



of 30 minutes to make their full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the City Council or a Board member.

- b. The Applicant shall present evidence and testimony in support of the application. The Applicant shall have a maximum of 30 minutes to make its full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the City Council or a Board member.
  - c. Any Party Intervenor shall present evidence and testimony in support of or opposed to the application. A Party Intervenor shall have a maximum of 30 minutes to make his/her full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the City Council or a Board Member.
  - d. Any other persons present who wish to submit relevant information to the City Council or Board shall speak next for a maximum of three minutes each (excluding any cross-examination or questions from the Council or a Board member). All such persons shall be sworn and shall be subject to cross-examination by any party.
4. The Presiding Officer shall call three (3) times for public comment.
  5. The City Council or Board shall enter a motion to close the public hearing.
  6. The City Attorney or legal advisor will advise the City Council or Board as to the applicable law and the factual findings that must be made to approve or deny the application.
  7. The City Council or Board will conduct open deliberation of the application. The Presiding Officer shall have the discretion to reopen the proceeding for additional testimony or argument by the parties when an outcome substantially different than either the granting or denial of the application is being considered. After deliberations, a vote shall be taken to approve, approve with conditions or deny the application.

## **VIII. EXAMINATION BY CITY COUNCIL; AND CITY ATTORNEY OR LEGAL ADVISOR**

City Council members, Board members, City Attorney or legal advisor may ask questions of persons presenting testimony or evidence at any time during the proceedings until commencement of deliberation.

## **IX. CROSS-EXAMINATION OF WITNESSES**

After each witness testifies, City Staff, the Applicant and the Party Intervenor shall be permitted to cross-examination each witness. Members of the public will not be permitted to cross-examine witnesses. Cross-examination shall be permitted only as would be permitted in a Florida court of law.

## **X. RULES OF EVIDENCE**

1. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a court of law in Florida. Irrelevant, immaterial, harassing, defamatory or unduly repetitive evidence shall be excluded.
2. Hearsay evidence may be used for the purposes of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in a civil action.
3. Documentary evidence may be presented in the form of a copy or the original. Upon request, parties shall be given an opportunity to compare the copy with the original.
4. Not all admissible evidence may be the basis of a finding by the Board. Only competent, substantial evidence may be the basis of findings. As noted above, competent, substantial

evidence is defined as relevant and material evidence that a reasonable mind would accept as adequate to support the conclusions reached.

## XI. STATEMENTS OF COUNSEL

Statements of counsel, or any non-attorney representative, shall only be considered as argument and not testimony unless counsel or the representative is sworn in and the testimony is based on actual personal knowledge of the matters which are the subject of the statements.

## XII. CONTINUANCES AND DEFERRALS

The City Council or Board shall consider requests for continuances made by City Staff; the Applicant, or a Party Intervenor and may grant continuances in its sole discretion. If, in the opinion of the City Council or Board, any testimony or documentary evidence or information presented at the hearing justifies allowing additional research or review in order to properly determine the issue presented, then the City Council or Board may continue the matter to a time certain to allow for such research or review.

## XIII. TRANSCRIPTION OF HEARING

1. The City Clerk or staff liaison shall preserve the official proceeding of the hearing through tape recording and/or video recording and summary minutes.
2. The Applicant or Party Intervenor may arrange, at its own expense, for a court reporter to transcribe the hearing and the transcription shall become the official transcript.

## XIV. MAINTENANCE OF EVIDENCE AND OTHER DOCUMENTS

The Office of the City Clerk or staff liaison shall retain all of the evidence and documents presented at the hearing.

## XV. FALSE TESTIMONY

Any willful false swearing on the part of any witness or person giving evidence before the Council or Board as to any material fact in the proceedings shall be deemed to be perjury and shall be punished in the manner prescribed by law for such offense.

## XVI. FAILURE OF APPLICANT TO APPEAR

If the Applicant or Party Intervenor fail to appear at the time fixed for the hearing, and such absence is not excused by the Council or Board, the Council or Board may proceed to hear the evidence and render a decision thereon *in absentia*.

**NOTE:** The City Attorney has provided an opinion indicating while board members may meet with developers and residents regarding applications to be considered in quasi-judicial public hearings, such meetings should be avoided to maintain the integrity of the decision-making process and reduce the perception that the proceedings are tainted.

## OVERVIEW OF THE SUNSHINE LAW

Florida's Government in the Sunshine Law, commonly referred to as the Sunshine Law, provides the public's right of access to governmental proceedings at both the state and local levels. The law is equally applicable to elected and appointed boards, applies to any physical or virtual gathering of two or more members of the same board/committee and prohibits discussion of any matter which could foreseeably come before that body for action. There are three basic requirements of Section 286.011, Florida Statutes (FS):

- Meetings of public boards/committees must be open to the public;
- Reasonable notice of such meetings must be given; and
- Minutes of the meetings must be taken.

Council-appointed boards and committees are subject to Florida's Sunshine Law. No two members of a board may discuss City business outside of a properly noticed public meeting at which there is a quorum and at which minutes are taken.

Advisory boards are subject to the Sunshine Law even though their recommendations are not binding upon City Council.

**Consequences for violation of the Sunshine Law include criminal penalties, removal from office, non-criminal charges, fines and attorney fees.**

### NUMBER OF BOARD MEMBERS REQUIRED TO BE PRESENT (QUORUM)

The starting point for a meeting is the establishment of a quorum, which is defined as the minimum number of members of the body who must be physically present at a meeting for business to be legally transacted. A quorum is the number of members that equals half the total body plus one. If a body has fewer than the required number of members present for a quorum, it cannot legally transact business. Without a quorum, no action may be taken other than roll call and, immediately thereafter, adjournment.

Even if the body has a quorum to begin the meeting, the body can lose the quorum during the meeting when a member departs. When that occurs, the body loses its ability to transact business until and unless a quorum is reestablished.

Note that there is no requirement that a quorum be present for a meeting of members of a board to be subject to the Sunshine Law. The law is applicable to *any* gathering, whether formal or casual, physical or virtual, of two or more members of the same board or commission to discuss some matter on which *foreseeable action* will be taken by the board. **This means discussion of business to come before the board held in Chambers before or after the meeting are in violation of the Sunshine Law.**

### USE OF COMPUTERS

While there is no provision generally prohibiting the use of computers to carry out public business, their use by members of a board to communicate among themselves on issues pending before the board, is subject to the Sunshine Law.

### WRITTEN CORRESPONDENCE BETWEEN BOARD MEMBERS

The use of a written report by one member to inform other members of a subject which will be discussed at a public meeting is not a violation of the Sunshine Law **if no discussion of the report takes place prior to the meeting.** The same rule applies to any form of written communication, including emails and social media posts. Members are discouraged from posting comments regarding board business on their personal social media pages.

**Note: All correspondence, including social media posts, related to board matters is subject to the Public Records Law and must be retained by the member in accordance with the State of Florida General Records Schedules.**

### **TELEPHONE PARTICIPATION**

If a quorum of the board is physically present, the participation of an absent member by telephone conference or other interactive electronic technology is permissible only when such absence is due to extraordinary circumstances, such as illness. Scheduling conflicts are not considered extraordinary circumstances.

### **USE OF NON-MEMBERS AS LIAISONS BETWEEN MEMBERS (DE FACTO MEETINGS)**

The Sunshine Law expressly prohibits the use of a third party/liaison as a “go-between” among members.

### **ATTENDANCE AT MEETINGS OF OTHER BOARDS**

The Sunshine Law applies to board members attending meetings of another public board. It does not prohibit members from attending other City board meetings and commenting on agenda items which may subsequently come before the board; however, members attending such meetings may not comment on statements made by other members during that meeting nor may they discuss those issues among themselves.

### **SOCIAL EVENTS**

Members of a public board may meet socially provided that matters which may come before the board are not discussed at such gatherings.

### **NOTICE AND PROCEDURAL REQUIREMENTS OF THE SUNSHINE LAW**

A key element of the Sunshine Law is the requirement that boards subject to the law provide “reasonable notice” of all meetings. The type of notice that must be given is variable, however, depending on the facts of the situation and the board involved. In some instances, posting of the notice in an area set aside for that purpose may be sufficient; in others, publication in a local newspaper may be necessary. In each case, an agency must give notice at such time and in such a manner as will enable interested members of the public to attend the meeting.

### **AGENDAS AND THE SUNSHINE LAW**

The Sunshine Law does not mandate that an agency provide notice of each item to be discussed via a published agenda; however, the Attorney General’s Office has advised a board to “postpone formal action on controversial matters coming before the board at a meeting where the public has not been given notice that such an issue will be discussed.” Therefore, City Council has adopted a policy which prohibits the addition of items to an agenda once it has been published ([see Exhibit B](#)).

### **RESTRICTIONS ON PUBLIC ATTENDANCE AND PARTICIPATION**

The term “open to the public” as used in the Sunshine Law means open to all who choose to attend. For a meeting to be “public,” the public must be given advance notice and provided with a reasonable opportunity to attend. Meetings held in rooms, facilities or locations which discriminate, unreasonably restrict access or otherwise create barriers to public attendance may have a “chilling” effect on the public’s willingness to attend, and are therefore prohibited. Inspection trips by two or more members of a board are prohibited if discussions relating to any business of the board may occur between members during the trip.

A board’s request that certain members of the public “voluntarily” leave the room during portions of a public meeting is not permitted. Also, staff of a public agency clearly are members of the

public as well as employees of the agency; therefore, they cannot be excluded from public meetings.

## CAMERAS AND TAPE RECORDERS

A board may not ban videotaping of an otherwise public meeting. Similarly, a rule or policy that prohibits non-disruptive or silent tape-recording devices at public meetings is invalid. However, it is necessary to have reasonable rules and policies in place which ensure the orderly conduct of public meetings and which require orderly behavior on the part of those persons attending a public meeting. To this end, City Council has enacted a list of facilities rules which must be followed ([see Exhibit C](#)).

## MINUTES REQUIREMENT

Section 286.011, Florida Statutes, specifically requires that minutes of a meeting of a public board be promptly recorded and open to public inspection. Minutes of Sunshine Law meetings need not be verbatim transcripts of the meetings; use of the term “minutes” contemplates a brief summary reflecting the events of the meeting.

Accordingly, minutes produced by the City Clerk’s Office are intended to reflect the spirit and intent of meeting proceedings. The City has adopted an “action” minutes format, which includes a brief summary of presentations by staff and applicants (if any), actions taken by the board and public comment. Lengthy summaries of board member comments/ discussions do not appear in the minutes.

There is no requirement that audiotape or videotape recordings be made of each public meeting; however, once made, such recordings are public records.

Draft meeting minutes are public records even when they have not yet been distributed or officially approved by the board.

## VOTING/USE OF BALLOTS

Board members are not prohibited from using written ballots to cast a vote as long as the votes are made openly at a public meeting, the name of the person who voted and his or her selection are written on the ballot, and the ballots are maintained and made available for public inspection. A secret ballot violates the Sunshine law.

# PUBLIC RECORDS LAW

Chapter 119, Florida Statutes, is commonly referred to as the Public Records Law.

Each person involved in the business conducted by the City has the responsibility to protect, preserve, store, transfer, destroy or otherwise dispose of, use and manage public records only in accordance with the applicable Federal, State and local law, and such rules as may be promulgated or approved by the City.

Per State law, each record dealing with City business needs to be retained for the length of time prescribed in the State's Records Retention Schedules. Upon meeting the length of time that the record needs to be preserved, established procedures need to be followed to receive approval for destruction.

## PUBLIC RECORDS DEFINITION

Section 119.011(11) defines "public records" to include the following:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, computer records, e-mail or other material, regardless of physical form, characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency/board in connection with official business which are used to perpetuate, communicate or formalize knowledge. Accordingly, the form of the record is irrelevant; the material issue is whether the record is made or received by the public agency/board in connection with the transaction of official business.

Computerized public records are governed by the same rules as written documents and other public records – the records are subject to public inspection unless a statutory exemption exists which removes the records from disclosure.

Email messages made or received by board members in connection with official business are public records and subject to disclosure in the absence of a statutory exemption from public inspection, even when sent to or from their personal email accounts. Such messages are subject to the statutory restrictions on destruction of public records, which require agencies to adopt a schedule for the disposal of records no longer needed. A public record may be destroyed only in accordance with retention schedules established by the Division of Library and Information Services of the Department of State.

Social media posts regarding official business are public records and subject to the statutory restrictions on destruction of public records.

Board member correspondence related to board business must be retained in accordance with the State's guidelines with the exception of transitory type messages such as a member requesting a ride to a meeting or a written suggestion to meet for dinner after a meeting

## RETENTION OF PUBLIC RECORDS

### **Delivery of records to successor**

Section 119.021(4)(a), Florida Statutes, provides that whoever has custody of public records shall deliver such records to his/her successor at the expiration of his/her term of office or, if there is no successor, to the City Clerk's Office.

### **Retention and disposal of records**

Pursuant to Section 257.36(6), Florida Statutes, a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the Division of Library

and Information Services of the Department of State. This statutory mandate applies to exempt records as well as those subject to public inspection. Questions regarding record destruction schedules should be referred to the Department of State, Bureau of Archives and Records Management at (850)245-6750.

**NOTE:** Public records created in the performance of a board member's duties must be maintained according to the State's established General Records Schedule GS1-SL for State and Local Government Agencies. The GS1-SL Schedule can be found online at <https://dos.myflorida.com/library-archives/>.

Members are not required to retain their agenda packets as the City Clerk's Office maintains a record copy of all such material and will produce such copies upon request. In order to ensure emails regarding City business are not destroyed prematurely, Board members are required to forward to [retention@cityofpuntagordafl.com](mailto:retention@cityofpuntagordafl.com) any emails they receive or send regarding City business other than those sent received from or sent to City staff.

### NOTES OR DRAFTS

According to the Public Records Law, there is no "unfinished business" exception to the public inspection and copying requirements of Chapter 119. If the purpose of a document prepared in connection with the official business of a board is to perpetuate, communicate, or formalize knowledge, then it is a public record regardless of whether it is in final form or the ultimate product of a board.

Accordingly, any board document, however prepared, if circulated for review, comment or information, is a public record regardless of whether it is an official expression of policy or marked "preliminary" or "working draft" or similarly labeled.

### PERSONNEL RECORDS

The general rule with regard to personnel records is the same as for other public records; personnel records, including online applications, are subject to public inspection and copying under section 119.07(1), Florida Statutes.



## ETHICS

The State of Florida's ethics laws generally consist of two types of provisions, those prohibiting certain actions or conduct and those requiring that certain disclosures be made to the public. Florida Statutes Chapter 112, Part Three, provides for the Code of Ethics for Public Officers and Employees. The Commission on Ethics publishes a [Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees](#) each year. The law's specific provisions include:

- Prohibited Actions or Conduct
- Prohibited Employment and Business Relationships
- Restrictions on Appointing, Employing and Contracting with Relatives
- Post Office Holding and Employment (Revolving Door) Restrictions
- Voting Conflicts of Interest
- Financial Disclosures

## PENALTIES

Penalties for violating the Code of Ethics range from a misdemeanor to a felony of the third degree. Penalties for violation of those laws may include: impeachment, removal from office or employment, suspension, public censure, reprimand, demotion, reduction in salary level, forfeiture of no more than one-third salary per month for no more than twelve months, a civil penalty not to exceed \$10,000 and restitution of any pecuniary benefits received.

## ADVISORY OPINIONS

Any public officer, candidate for public office, or public employee who is in doubt about the applicability of the standards of conduct or disclosure laws to them, or anyone who has the power to hire or terminate another public employee, may seek an advisory opinion from the Commission on Ethics. Once opinions are issued by the Commission, they are binding on the conduct of the person who is the subject of the opinion, unless material facts were omitted or misstated in the request for opinion. The address for the Commission is Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709.

## ABSTENTION FROM VOTING

Florida Statute [286.012](#) - **Voting requirement at meetings of governmental bodies.** A member of a state, county, or municipal governmental board, commission, or agency who is present at a meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may not abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, unless, with respect to any such member, there is, or appears to be, a possible conflict of interest under s. [112.311](#), s. [112.313](#), s. [112.3143](#), or additional or more stringent standards of conduct, if any, adopted pursuant to s. [112.326](#). If there is, or appears to be, a possible conflict under s. [112.311](#), s. [112.313](#), or s. [112.3143](#), the member shall comply with the disclosure requirements of s. [112.3143](#). If the only conflict or possible conflict is one arising from the additional or more stringent standards adopted pursuant to s. [112.326](#), the member shall comply with any disclosure requirements adopted pursuant to s. [112.326](#). If the official decision, ruling, or act occurs in the context of a quasi-judicial proceeding, a member may abstain from voting on such matter if the abstention is to assure a fair proceeding free from potential bias or prejudice.



## CONFLICTS OF INTEREST

It should be noted legally defined conflicts of interest are uncommon; however, [Florida Statute 112.3143](#) establishes provisions regarding conflicts of interest apply to any person elected or appointed to hold office in any agency, including any person serving on an advisory or non-advisory board. Such individuals must abstain from knowingly voting on a measure which would inure to his/her special private gain or loss or inure to the special private gain or loss of a relative, business associate or principal (other than the government agency) by whom he/she is retained, including the parent, subsidiary or sibling organization of a principal by which he/she is retained. "Relative" means the elected or appointed individual's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law or daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venture, co-owner of property or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

While appointed public officers may not vote in matters such as those described above, they may otherwise participate in discussion or provide information. Whether participation will occur orally or in writing and whether made by the appointed officer or at his/her direction, the nature of the conflict of interest must be disclosed verbally at the meeting and by filing a completed [Form 8B](#) with the City Clerk's Office within 15 days of the vote being taken. The form is filed with the official minutes of the meeting at which the conflict was disclosed and becomes a permanent part thereof.

## DUAL OFFICE-HOLDING

Article II, Section 5, of the Florida Constitution, prohibits any person from serving on more than one decision-making board.

## FINANCIAL DISCLOSURE REQUIREMENTS

According to [Florida Statute Sections 112.3145](#)(1), (2), and (3) as well as a decision by the Commission on Ethics, members of the following City boards must file a Form 1 Financial Disclosure Form:

- Board of Zoning Appeals
- Burnt Store Isles Canal Advisory Committee
- Code Enforcement Board
- Community Redevelopment Agency
- Development Review Committee
- Firefighter's Pension Board
- General Employee's Pension Board
- Mayor and City Council
- Planning Commission
- Police Officer's Pension Board
- Punta Gorda Isles Canal Advisory Committee

Form 1 requirements are set forth fully in the form. In general, this includes the reporting person's sources and types of financial interests, e.g., name of employer and address of real property holdings. No dollar values are required to be listed.

Each board member who is appointed must file within 30 days from the date of appointment. Financial disclosure forms are filed with the Supervisor of Elections in his or her county of permanent residence. Contact the Commission on Ethics with any questions on how to fill out the Form 1.

## QUICK REFERENCES

### SUNSHINE LAW MANUAL

The Sunshine Law Manual provides detailed information on the law's scope, entities which are covered by the law, and application of the law. Information is also provided on the Public Records Act as well as its application and requirements.

URL: <http://www.myfloridalegal.com/sun.nsf/sunmanual>

### RECORDS RETENTION SCHEDULES

The State's General Records Schedules set the retention requirements for records documenting administrative and program functions of the City.

URL: <https://dos.myflorida.com/library-archives/records-management/general-records-schedules/>

### COMMISSION ON ETHICS' FINANCIAL DISCLOSURE INFORMATION

The Commission on Ethics provides basic information on their financial disclosure requirements and includes links to relevant State Statute establishing who must file a financial disclosure form.

URL: <http://www.ethics.state.fl.us/financialdisclosure/>

### COMMISSION ON ETHICS' FINANCIAL DISCLOSURE FORMS

The Commission on Ethics provides current forms and filing information for matters such as financial disclosure and voting conflicts.

URL: <http://www.ethics.state.fl.us/FinancialDisclosure/DownloadAForm.aspx>

### FLORIDA LEAGUE OF CITIES' LEARNING LIBRARY

The Florida League of Cities provides webinars on various topics, such as public comment moderation, civility and the Sunshine Law.

URL: <https://www.gotostage.com/channel/270e67f662b2489e858d9ea3c69164cf>

### PUNTA GORDA CODE OF ORDINANCES

The City's Code of Ordinances is available online and can be viewed as individual chapters or in its entirety.

URL: <http://www.ci.punta-gorda.fl.us/government/city-clerk/code-of-ordinances>

# EXHIBIT A: PUBLIC COMMENT RESOLUTION

## CITY OF PUNTA GORDA, FLORIDA

RESOLUTION NO. 3224-16

A RESOLUTION OF THE CITY OF PUNTA GORDA, FLORIDA, ADOPTING A PROCEDURE TO COMPLY WITH FLORIDA STATUTES SECTION 286.0114 REGARDING PUBLIC INPUT AT PUBLIC MEETINGS; PROVIDING FOR CONFLICTS AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, public participation in government business is the bedrock of American local government and should be protected, permitted, and not discouraged, consistent with principles of common and statutory law; and

WHEREAS, for many years the City of Punta Gorda has included a place on the agenda to provide the opportunity for public input at all City Council, Community Redevelopment Agency (CRA) and advisory board meetings; and

WHEREAS, Florida Statutes Section 286.0114 codifies rules for public input at local government meetings and requires municipal boards and commissions to provide members of the public a reasonable opportunity to be heard before official action is taken; and

WHEREAS, the City of Punta Gorda desires to adopt rules in compliance with said Statute to comply with the law and to encourage public input at City Council, CRA and advisory board meetings; and

WHEREAS, the City is permitted to set reasonable ground rules for public participation within its Council meetings and within any other meetings of any agency, board or commission of the City or its agencies or authorities.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Punta Gorda, Florida, as follows:

1. Applicability: The guidelines and procedures set forth in this Resolution are intended for all public meetings of the City Council, CRA and advisory boards of the City of Punta Gorda, subject to the limitations noted herein.

2. Public Opportunity To Be Heard: Members of the public shall be given a reasonable opportunity to be heard on all agenda items during every Council, CRA or advisory board meeting. Time for public comments on non-agenda items is provided at the end of every meeting, except as specified below. Public input shall be limited to three (3) minutes with the presiding officer having the option to allow additional time. This right does not apply to:

- a. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Council or Board to act;
  - b. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
  - c. A meeting that is exempt from Section 286.011; or
  - d. A meeting during which the Commission or Board is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.
3. Addressing City Council, CRA and Advisory Boards:
- a. Any person who desires to address the City Council, CRA or any advisory board of the City shall step to the podium and when recognized by the presiding officer, shall state their name and address in an audible tone of voice for the record. Remarks shall address City business and be limited to three (3) minutes. Time limits will be strictly enforced; however, additional time may be granted at the discretion of the presiding officer. A speaker's allotted time for addressing the Council may not be donated to another speaker.
  - b. No action shall be taken on items brought up during the Public Comment portion of the meeting, unless the topic appears on or is added to the Agenda as an emergency item by a vote of the City Council, CRA or advisory board.
  - c. Statements are to be directed to the City Council, CRA or advisory board as a whole, and not to individuals. Public comment is not intended to require the City Council, CRA or advisory board to provide any answer to the speaker. Discussions between speakers and members of the audience will not be allowed while the speaker is addressing the Council, CRA or advisory board.
  - d. Speakers will be courteous in their language and presentation. Any person making personal, impertinent or slanderous remarks, or who shall become boisterous or use offensive language, may be requested to leave the meeting and may be barred from further presentation before the Council at that meeting by the presiding officer. In addition, Section 871.01, Florida Statutes, declares that any person who willfully interrupts or disturbs any assembly of people meeting for any lawful purpose shall be guilty of a misdemeanor of the second degree, and may be arrested by police officers present.
  - e. In the interest of time, representatives of groups or factions supporting or opposing a proposition may be required to address the City Council, CRA or advisory board, rather than all members of such groups or factions, at meetings in which a large number of individuals wish to be heard. Presentations shall be



limited to 20 minutes; however, additional time may be granted at the discretion of the presiding officer.

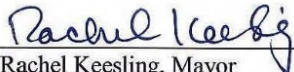
4. Conflicts. All Resolutions or parts of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

5. Severability. If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Resolution.


6. Effective Date. This Resolution becomes effective immediately upon its adoption.

ADOPTED in regular session of the City Council of the City of Punta Gorda, Florida, this 20<sup>th</sup> day of April, 2016.


CITY OF PUNTA GORDA, FLORIDA

  
Rachel Keesling, Mayor

ATTEST:

  
Karen Smith, City Clerk

APPROVED AS TO FORM:

  
David Levin, City Attorney

# EXHIBIT B: NON-AGENDA ITEM POLICY RESOLUTION

RESOLUTION NO. 2074-98

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA, DECLARING ITS POLICY WITH REGARD TO TAKING ACTION ON NON-AGENDA ITEMS; PROVIDING FOR CONSIDERATION OF NON-AGENDA ITEMS ONLY AFTER APPROVAL BY A MAJORITY PLUS ONE OF A QUORUM OF COUNCIL TO DO SO AND ONLY FOR STATED REASONS; AND PROVIDING AN EFFECTIVE DATE

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA, THAT:**

1. The City Council hereby establishes as its policy that, except as provided in Section 2 below, no action will be taken by the Council on any matter that is not contained on the City Council's published agenda for a regular council meeting.

2. The City Council may take action, at any regular council meeting on an item that is not contained in the published agenda for the meeting, only if (a) the item is deemed an emergency matter, or (b) it is related to an agenda item and should properly be considered at the same time. An item meeting the criteria of (a) or (b) of this section may be added to the published agenda for the meeting only after approval by a majority plus one of a quorum of the council to add the item to the agenda.

3. This resolution shall take effect immediately upon its adoption.

**ADOPTED** at a regular meeting of the City Council of the City of Punta Gorda, Florida, this 3rd day of June, 1998.

  
WILLIAM F. RICHARDS, Mayor

ATTEST:

  
ELLEN DIOMEDES, City Clerk

APPROVED AS TO FORM:

  
DAVID LA CROIX, City Attorney

6/4/98  
Date

# EXHIBIT C: PUBLIC AND NONPUBLIC FORUMS ORDINANCE

City of Punta Gorda

ORDINANCE NO. 1872-17

AN ORDINANCE OF THE CITY OF PUNTA GORDA, FLORIDA AMENDING CHAPTER 15, ORDINANCES AND MISCELLANEOUS PROVISIONS; ADDING A NEW SECTION 15-48, "CONTROL OF ACCESS TO CITY-OWNED, CONTROLLED, AND LEASED PROPERTY"; PROVIDING FOR RECOGNITION THAT CERTAIN AREAS OF CITY-OWNED, CONTROLLED, AND LEASED PROPERTY MAY REQUIRE REGULATION OF PUBLIC ACCESS TO PROVIDE FOR THE SECURITY AND PRIVACY OF PUBLIC VISITORS, TO PROVIDE FOR THE SECURITY AND PRIVACY OF CITY EMPLOYEES AND OFFICIALS, AND TO MINIMIZE POTENTIAL DISRUPTIONS TO THE WORK OF CITY GOVERNMENT; PROVIDING THE CITY MANAGER WITH THE AUTHORITY TO MANAGE PUBLIC ACCESS TO CITY-OWNED, CONTROLLED, AND LEASED PROPERTY; PROVIDING THE CITY MANAGER WITH THE AUTHORITY TO DESIGNATE WHICH AREAS OF CITY-OWNED, CONTROLLED, AND LEASED PROPERTY ARE TO BE CONSIDERED "DESIGNATED PUBLIC FORUM", "LIMITED DESIGNATED PUBLIC FORUM", AND "NONPUBLIC FORUM"; AUTHORIZING THE CITY MANAGER TO SEPARATE DESIGNATED PUBLIC FORUMS FROM NONPUBLIC FORUMS; AUTHORIZING THE CITY MANAGER TO DEVELOP AND IMPLEMENT PROCEDURES TO REGULATE AND CONTROL PUBLIC ACCESS TO CITY-OWNED, CONTROLLED, AND LEASED PROPERTY; PROHIBITING THE UNCONSENTED RECORDING OF VIDEO AND AUDIO WITHIN CITY-OWNED, CONTROLLED, AND LEASED PROPERTY, EXCEPT DURING PUBLIC MEETINGS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Punta Gorda, Florida may lawfully designate the degree of public access within City-owned, control, and leased property according to the purpose and use of areas within such property; and

WHEREAS, the City Council of the City of Punta Gorda, Florida seeks to maintain a safe and orderly environment on City-owned, controlled, and leased property which is conducive to the designated use of the areas within such City property and to the efficient rendering of public services; and

WHEREAS, the City Council of the City of Punta Gorda, Florida seeks to discourage and prevent behavior on City-owned, controlled, and leased property which interferes with the

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designated use of the areas within such City property and to the efficient rendering of public services; and

WHEREAS, the City Council of the City of Punta Gorda, Florida recognizes that the public has certain constitutionally protected rights within designated public forums and limited designated forums, such rights may be subject to reasonable regulation within nonpublic forums; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA, THAT:

I. Chapter 15, "Ordinances and Miscellaneous Provisions", Punta Gorda Code, is hereby amended by the addition of a new Section 15-48, Punta Gorda Code, to read as follows:

**Sec. 15-48. Control of Access to City-owned, controlled, and leased property.**

(a) Consistent with decisions of the U.S. Supreme Court, public access to areas within enclosed facilities owned, controlled, and leased by the City of Punta Gorda may be restricted depending upon whether such areas are classified as "designated public forum", "limited designated public forum", or "nonpublic forum". How areas within enclosed facilities owned, controlled, and leased by the City of Punta Gorda are classified is based upon their intended use. For example, there are certain areas which are intended primarily for the use of City employees in the conduct of their business; there are certain areas which, while primarily intended for the use of City employees in the conduct of their business, may from time to time be utilized for the convening of public meetings; there are certain limited areas which may be open to the public while engaging in legitimate business with City officers or employees; and there may be certain areas which are primarily intended for the convening of public meetings.

(b) The City Manager is hereby authorized to manage public access to enclosed City-owned, controlled, and leased property. In the performance of such responsibilities, the City Manager shall have the authority to identify which areas are to be considered designated public forum, limited designated public forum, or nonpublic forum.

(c) Upon the classification of areas within enclosed City-owned, controlled, and leased property, the City Manager is hereby authorized, subject to the availability of appropriated funds, to employ whatever means he deems necessary and appropriate to separate designated public forums from nonpublic forums, including, but not limited to



the use of physical barriers and signage. The City Manager shall also have the authority to develop and implement procedures to regulate and control public access within City-owned, controlled, and leased property to provide for the security and privacy of public visitors; to provide for the security and privacy of City employees and officers; and to minimize potential disruptions to the work of City government. Any person who engages in conduct that causes disruptions to the work of City government shall be deemed to no longer be present within the City-owned, controlled, or leased property on legitimate public business.

(d) The City Council Chambers and conference rooms in the City Hall and City Hall Annex are hereby declared to be nonpublic forums unless or until a public meeting is convened in such areas pursuant to public notice. All City employee work areas within City Hall and the City Hall Annex which are designated by appropriate signage as work areas shall be considered as nonpublic forums. Members of the public are prohibited from entering City employee work areas without being escorted by a City employee. All other areas of the City Hall and City Hall Annex are hereby designated as limited public forums and only persons who are present to engage in legitimate public business with City officers or employees shall be authorized. It shall be a violation of this Ordinance to be within a nonpublic forum or a limited public forum without authorization. Unauthorized persons found by the City Manager or his designee to be within a nonpublic forum or a limited public forum and who refuse to leave the premises upon request, shall be considered a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct.

(e) Except within the City Council Chambers, conference rooms, and other locations in which a public meeting is being conducted pursuant to a public notice, it shall be unlawful and a violation of this Ordinance, to record video and/or sound within City-owned, controlled, and leased property, without the consent of all persons whose voice or image is being recorded. This prohibition shall not apply to any law enforcement activities. In addition to being a violation of this Ordinance, if anyone who is observed to be recording video and/or sound within City-owned, controlled, or leased property, without the consent of all persons whose voice or image is being recorded, and such person refuses to cease such activity after being advised that such activity is prohibited

under this Ordinance, such refusal shall be considered to be a disruption to the work of City government. Therefore, such person shall be deemed to no longer be present within the City-owned, controlled, or leased property on legitimate public business. The City Manager and his designees are hereby authorized on behalf of the City of Punta Gorda, Florida to ~~warn persons of this prohibited activity and request such activity to cease.~~ request any person who refuses to cease the unconsented to video and/or sound recording to immediately leave the premises. Any person who refuses to cease the unconsented to video and/or sound recording, and refuses to immediately leave the premises following the request of the City Manager or his designee, shall be considered as a trespasser. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for this conduct..

(f) The City Manager and his designees may have cause to remove any person they determine:

1. Acts in any manner which violates or is reasonably suspected to violate any federal, state, or local law, ordinance, rule or regulation; or
2. Acts in any manner which violates any City rule or policy, including but not limited to the Facility Rules; or any directive on any sign or notice at the public property.

The City Manager and his designees are hereby authorized on behalf of the City of Punta Gorda, Florida to warn persons of this prohibited activity and request such activity to cease. Law Enforcement, at its option, at the request of the City may issue a trespass warning notice for these violations of conduct.

(g) The City Manager and his designees are hereby authorized on behalf of the City of Punta Gorda, Florida to warn persons who have entered into or remain in areas where they are not authorized to be, and to request such persons to depart. The City Manager, and his designees, are hereby be authorized to call upon law enforcement to treat as trespassers any persons who refuse to depart after such a request has been made. Law enforcement, at its option, may enforce any person's refusal to depart by means of Section 810.08 and 810.09, Florida Statutes or issue a trespass warning notice.

II. It is the declared intent of the City Council that if any section, subsection, sentence, clause, phrase or provision of this ordinance is held invalid or unconstitutional by a

court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

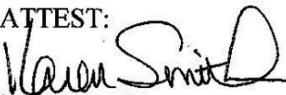
III. Any ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

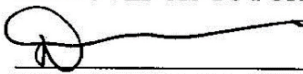
IV. This ordinance is intended to repeal and reenact the provisions of Ordinance No. 1867-17 and that any actions taken pursuant to the Emergency Ordinance shall remain in full force and effect upon the adoption of this Ordinance.

IV. This ordinance shall take effect immediately upon adoption.

ADOPTED in regular session of the City Council of the City of Punta Gorda, Florida this 3<sup>rd</sup> day of May, 2017.

  
RACHEL KEESLING, Mayor

ATTEST:  
  
KAREN SMITH, City Clerk

APPROVED AS TO FORM:  
  
DAVID M. LEVIN, City Attorney

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# EXHIBIT D: CONTROL OF ACCESS TO CITY PROPERTY

## CITY OF PUNTA GORDA

ORDINANCE NO. 1938-2020

AN ORDINANCE OF THE CITY OF PUNTA GORDA, FLORIDA, AMENDING CHAPTER 15, "OFFENSES AND MISCELLANEOUS PROVISIONS", OF THE PUNTA GORDA CODE, BY AMENDING SECTION 15-48, "CONTROL OF ACCESS TO CITY-OWNED, CONTROLLED AND LEASED PROPERTY", TO ADOPT FACILITY RULES; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Punta Gorda, Florida may lawfully designate the degree of public access within City-owned, controlled, and leased property according to the purpose and use of areas within such property; and

WHEREAS, the City Council of the City of Punta Gorda, Florida seeks to maintain a safe and orderly environment on City-owned, controlled, and leased property which is conducive to the designated use of the areas within such City property and to the efficient rendering of public services; and

WHEREAS, the City Council of the City of Punta Gorda, Florida seeks to discourage and prevent behavior on City-owned, controlled, and leased property which interferes with the designated use of the areas within such City property and to the efficient rendering of public services; and

WHEREAS, the City Council of the City of Punta Gorda, Florida desires to establish facility rules applicable to City-owned, controlled and leased property.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA:

I. Chapter 15, Section 15-48 of the Punta Gorda Code is hereby amended to read as follows: [additions are underlined and deletions are ~~struck through~~]:

**Sec. 15-48. Control of Access to City-owned, Controlled and Leased Property.**

*No changes to Paragraph (a) through (g)*

(h) Facility Rules. The following conduct is prohibited within the interior spaces of all City-owned controlled, and leased buildings of the City of Punta Gorda:

- (1) Engaging in any conduct prohibited by federal, State of Florida, or City of Punta Gorda law.
- (2) Possessing any weapons, except as specifically permitted by law.

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- (3) Smoking, chewing tobacco, use of e-cigarettes or vaping devices, or carrying any lighted or smoldering pipe, cigar, or cigarette.
- (4) Disruptive, harassing or unsafe behavior, including conduct which interferes with City employees or City officials in the performance of their duties, or interferes with the proper use of the City facility by others.
- (5) Abusive or harassing behavior, including use or display of obscene language, gestures, or graphics.
- (6) Blocking entrances, exits, fire exits, access areas, or otherwise interfering with the provision of services or the use of City property.
- (7) Entering or remaining in nonpublic areas without authorization. Areas inside City buildings, including offices, hallways, stairways, and elevators are open to the public only to the extent necessary to attend to City business, or attending a City-authorized function, event, or activity, to which the person is an invitee, or attending a duly noticed public meeting. Otherwise, such areas are deemed nonpublic areas.
- (8) Any act which could result in substantial risk of harm to persons or property.
- (9) Disrupting City business, events, or other City sponsored or authorized activities.
- (10) Leaving unattended packages, backpacks, luggage, or other personal items. Any such items are subject to immediate confiscation.
- (11) Laying down or sleeping in chairs, benches, or otherwise.
- (12) Possession of illegal drugs.
- (13) Posting or affixing to City property without permission from the City Manager, or his/her designee, any signs, leaflets, posters, flyers, pamphlets, brochures, and written, pictorial or graphic material of any kind.
- (14) Tampering with or unauthorized use of building or facility systems or devices, including electrical, plumbing, locks, doors, or cameras.
- (15) Audio and/or video recording anywhere inside of City buildings except during duly noticed public meetings, or as otherwise approved by the City Manager, or his/her designee. Except as otherwise approved by the City Manager, or his/her designee, audio and/or video recording may only be conducted within the City Council Chamber, and any room, or office within which said activity has been authorized by law. Any person found to be conducting audio and/or video recording except as authorized herein, must cease doing so immediately if any visitor, City employee or City official expresses his/her desire not to be recorded. This rule does not apply to audio and/or video recording performed by authorized law enforcement personnel engaged in the performance of their official duties. Audio and/or video recording of public meetings must be undertaken in a quiet and orderly manner so as not to interfere with the conduct of the meeting, block the

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view of any person attending the public meeting, or block any aisle, row, ingress or egress.

- (16) Remaining in a City building after posted hours of operation or after the conclusion of an authorized "after hours" public meeting or event.
- (17) Failure to cease conduct specifically prohibited in items 1 through 16 above immediately after a request by City staff to do so.
- (18) A copy of the foregoing Facility Rules shall be posted in close proximity to all public entrances of City-owned, controlled, and leased buildings of the City of Punta Gorda.

II. It is the declared intent of the City Council that, if any section, subsection, sentence, clause, phrase or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

III. Any ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

IV. This ordinance shall take effect immediately upon its adoption.

ADOPTED in regular session of the City Council of the City of Punta Gorda, Florida this 20 day of May, 2020.

  
\_\_\_\_\_  
NANCY PRAFKE, Mayor

ATTEST:

  
\_\_\_\_\_  
KAREN SMITH, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DAVID M. LEVIN, City Attorney

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**CITY CLERK'S OFFICE**

(941)575-3369

[PGClerk@CityofPuntaGordaFL.com](mailto:PGClerk@CityofPuntaGordaFL.com)

326 West Marion Avenue  
Punta Gorda, Florida 33950