

**CITY OF PUNTA GORDA**

**ORDINANCE NO. 1851-16**

**AN ORDINANCE OF THE CITY OF PUNTA GORDA, FLORIDA RELATING TO THE CALLING OF A REFERENDUM ELECTION TO CONSIDER AMENDMENTS TO THE CHARTER OF THE CITY OF PUNTA GORDA, FLORIDA PROPOSED BY THE CITY OF PUNTA GORDA CHARTER REVIEW COMMITTEE; PROVIDING FINDINGS WHICH INCLUDE THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR THE CALLING OF A REFERENDUM ELECTION; PROVIDING FOR THE CONDUCT OF A REFERENDUM ELECTION; PROVIDING THE FORM OF BALLOT; PROVIDING FOR THE FORM OF NOTICE OF REFERENDUM ELECTION; PROVIDING FOR THE POSTING OF ORDINANCE AT EACH POLLING PLACE; PROVIDING FOR FILING WITH THE SUPERVISOR OF ELECTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PUNTA GORDA, FLORIDA:**

**SECTION 1 – FINDINGS:**

- 1.01 On February 17, 2016, the City Council of the City of Punta Gorda, Florida adopted Resolution No. 3211-16 authorizing the formation of a Charter Review Committee for the express purpose of conducting a complete review of the City Charter and proposing amendments directly to the electorate at the next general election. Seven members and two alternate members were appointed to the Committee.
- 1.02 The first meeting of the Charter Review Committee was convened on February 25, 2016 and subsequent meetings, all duly advertised and open to the public, were held on March 8, 22, and 29, April 26, and May 19, 2016.
- 1.03 At its final meeting on May 19, 2016, the Charter Review Committee determined the following amendments be proposed to the electorate at the next general election:
  - A. **ARTICLE III. FORM OF GOVERNMENT; COMPOSITION OF COUNCIL; ITS POWERS AND DUTIES, Section 4. Salary, Punta Gorda Charter.**

The Charter Review Committee found that Councilmembers should be provided a reasonable salary to compensate them for the ever increasing time demands imposed by a

vibrant, growing community. The compensation of the Charlotte County Commission is fixed by statute and is therefore presumed to be reasonable. By fixing the Councilmembers' compensation to a percentage of that of the County Commissioners, the Councilmembers' compensation may also be presumed to be reasonable. Accordingly, ARTICLE III, Section 4. Salary, Punta Gorda Code, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

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

#### **B. ARTICLE III. FORM OF GOVERNMENT; COMPOSITION OF COUNCIL; ITS POWERS AND DUTIES, Section 6. Vacancies in the Council membership; forfeitures of office, Punta Gorda Charter.**

The Charter Review Committee found that the amount of time to fill a vacancy on the City Council should be increased from ten (10) days to twenty-five (25) days to afford the remaining members of the City Council sufficient time to fill the vacancy with a qualified individual residing within the District where the vacancy was created. The Committee found that the grounds for forfeiture of office as provided in the current Charter should be clarified to be consistent with provisions of Section 100.361, Florida Statutes, relating to the recall of municipal elected officials. The Committee found that an option for providing for reprimand or censure, as an alternative to forfeiture of office provides the City Council with flexibility to impose a punishment commensurate with the circumstances of the offense. The remaining changes are intended to clarify the existing Charter language relating to substance or procedure. Accordingly, ARTICLE III, Section 6. Vacancies in the Council membership; forfeitures of office, Punta Gorda Code, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

Any vacancy on the Council occasioned by the death, resignation, successful recall election, permanent disability, forfeiture of office, or ~~removal from the jurisdiction~~ change of permanent residence to a location outside of the district the Councilmember was elected to represent, shall be filled for the remainder of the unexpired term by majority vote of the remaining members of the Council; provided however, that if such vacancy is not filled within ~~ten (10)~~ twenty-five (25) days after it shall have occurred, appointment to fill it shall be made by the Governor of Florida. For the purposes of this Section, in addition to grounds for forfeiture of office specified in other Sections of this Charter,

grounds for forfeiture of office shall be: malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony.

At any regular or special meeting of the City Council, the Council may adopt a resolution alleging the forfeiture of office by a Councilmember, which resolution shall state with specificity the alleged grounds for forfeiture of office. In its discretion, the City Council may choose to reprimand or censure a Councilmember instead of causing a forfeiture of office. ~~In case a resolution shall be adopted for the purpose of declaration of forfeiture of office,~~ †The party affected by such resolution shall be given written notice thereof, which shall be delivered to his or her personal place of abode within twenty-four (24) hours after the resolution is adopted. Within three (3) days after the adoption of the resolution, the affected party may, in writing served upon the City Clerk, demand a hearing upon the question of forfeiture at a public hearing to be fixed within ten (10) days of such demand. ~~Whenever such a hearing is requested,~~ If no written demand for a hearing is timely served upon the City Clerk, or if following the public hearing the Council determines that the affected party has forfeited his or her office, or if the affected party has resigned prior to a vote of the Council, the time in which a replacement may be appointed by the Council is extended until ~~fifteen (15)~~ twenty-five (25) days after the date of the scheduled public ~~the~~ hearing. ~~was requested.~~

**C. ARTICLE III. FORM OF GOVERNMENT; COMPOSITION OF COUNCIL; ITS POWERS AND DUTIES, Section 7. Induction of Councilmember into office; meeting of the Council, Punta Gorda Charter.**

The Charter Review Committee found that a change regarding the frequency of meetings was necessary to make the Charter consistent with the City Council's longstanding practice of providing time for summer vacations. The change regarding public meetings recognizes that there are certain limited types of meetings, such as "shade" meetings, specifically authorized by the Florida Government-in-the-Sunshine Law for the purposes of litigation settlement discussions or labor negotiations, which are not required to be open to the public. The Committee also recommended a change to the wording regarding notices for special meetings for clarification and to expand the manner by which councilmembers may be notified of special meetings. Accordingly, ARTICLE III, Section 7. Induction of Councilmember into office; meeting of the Council, Punta Gorda Charter, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

The first regular meeting of the Council following a City election shall be termed the organizational meeting, at which newly elected members shall be inducted into office. The Council shall meet regularly at such times as may be prescribed by its rules or

resolution but not less frequently than ~~twice a month~~ twenty-two (22) times per year and not less than once per month. Except as otherwise permitted by law, all meetings of the Council shall be open to the public. The Mayor, any member of the Council, or the City Manager may call special meetings of the Council upon at least twenty-four (24) hours' ~~written~~ notice to each member, ~~served personally or left at his or her usual place of abode with an adult member of the family,~~ and proof of ~~service of~~ such notice or attempted notice shall be filed at the called meeting. The purpose of the meeting shall be stated in the notice.

**D. ARTICLE VII. PERSONNEL. Section 3. City Personnel Rules and Regulations, Punta Gorda Charter.**

The Charter Review Committee found that changes are necessary to make the existing Charter provisions consistent with the language of federal laws concerning discrimination in employment. Accordingly, ARTICLE VII, Section 3. City Personnel Rules and Regulations, Punta Gorda Charter, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

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

**E. ARTICLE XII. INITIATIVE; REFERENDUM; RECALL. Section 1. Power of initiative, Punta Gorda Charter.**

The Charter Review Committee found that changes are necessary to make the existing Charter provisions consistent with the provisions of Section 163.3167(8), Florida Statutes and for the purposes of clarification. Section 163.3167(8), Florida Statutes prohibits the use of any initiative process in regard to any development order which, pursuant to Section 163.3164, Florida Statutes, means any order granting, denying, or granting with conditions an application for any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or other official action of a local government having the effect of permitting the development of land. Accordingly, ARTICLE XII. INITIATIVE; REFERENDUM; RECALL. Section 1. Power of initiative, Punta Gorda Charter, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

of the registered voters at the last preceding regular municipal election, may be filed with the City Clerk, requesting that any such ordinance be ~~either repealed, or submitted to a vote of the electors.~~ An adopted ordinance sought to be repealed by means of a referendum pursuant to the provisions of this Section shall be called a "referred ordinance".

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

**G. ARTICLE XII. INITIATIVE; REFERENDUM; RECALL. Section 10. Results of election, Punta Gorda Charter.**

The Charter Review Committee found that changes are necessary for the purpose of clarification. The change does not eliminate or modify any power of the City Council concerning ordinances. Accordingly, ARTICLE XII. INITIATIVE; REFERENDUM; RECALL. Section 10. Results of election, Punta Gorda Charter, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

**H. ARTICLE XVI. CHARTER REVIEW COMMITTEE. Section 1. Charter Review Committee, Punta Gorda Charter.**

The Charter Review Committee found that changes are necessary to eliminate an ambiguity in the language of the existing Charter relating to legal services provided to assist the Charter Review Committee. Accordingly, ARTICLE XVI. CHARTER REVIEW COMMITTEE. Section 1. Charter Review Committee, Punta Gorda Charter, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

**Section 1. Charter Review Committee.**

Beginning in the year 2010 and every six (6) years thereafter, the City Council for the City of Punta Gorda shall authorize the formation of a Charter Review Committee for the express purpose of conducting a complete review of the City Charter and proposing

amendments directly to the electorate at the next general election. Appointments to the Charter Review Committee shall be by the City Council of Punta Gorda. The Charter Review Committee shall be an independent body of up to fifteen (15) members with a separate budget, ~~and legal counsel.~~ The City Council shall appoint the City Attorney to assist the Charter Review Committee in the exercise of its duties. Alternatively, the Charter Review Committee may appoint independent legal counsel.

**I. ARTICLE XVI. CHARTER REVIEW COMMITTEE. Section 2. City Council and Voter Petition, Punta Gorda Charter.**

The Charter Review Committee found that changes are necessary to make the existing Charter consistent with the provisions of Section 166.031, Florida Statutes relating to the amendment of municipal charters. Accordingly, ARTICLE XVI. CHARTER REVIEW COMMITTEE. Section 2. City Council and Voter Petition, Punta Gorda Charter, is proposed to be amended to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

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

**J. ARTICLE XVII. GENERAL PROVISIONS, Punta Gorda Charter.**

The Charter Review Committee found that there is a need to include standards of conduct within the City's Charter, which if violated, may serve as grounds for discipline under the terms of the Charter. Accordingly, ARTICLE XVII, GENERAL PROVISIONS, Punta Gorda Charter, is proposed to be amended to include a new Section 8, Code of Ethics and Rules of Conduct, to read as follows [Note: Additions are shown as underlined, deletions are shown as ~~strikethroughs~~.]:

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

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

**SECTION 2 – REFERENDUM ELECTION CALLED:**

- 2.01 A referendum election is hereby ordered and called to be held throughout the City of Punta Gorda, Florida on November 8, 2016 for the purpose of submitting to the qualified electors of the City of Punta Gorda, Florida the question of approval or rejection of the amendments to the Charter of the City of Punta Gorda proposed by the Charter Review Committee as set forth in this Ordinance.

**SECTION 3 – CONDUCT OF REFERENDUM ELECTION:**

- 3.01 The referendum election called by this Ordinance shall be conducted in the manner prescribed in Chapters 100, 101, and 102, Florida Statutes.
- 3.02 The polling places, election officials, and hours of election for the referendum election shall be the same as those for the general election scheduled to be held within the City of Punta Gorda on November 8, 2016.

**SECTION 4 – FORM OF BALLOT:**

- 4.01 The ballot to be used in the referendum election called by this Ordinance shall be that portion of the computer touch screen or other material within the ballot frame of the voting machine which shall contain the question to be voted upon and which shall be substantially in the following form:

**OFFICIAL BALLOT  
CITY OF PUNTA GORDA, FLORIDA**

**AMENDMENT OF PUNTA GORDA CHARTER**

**November 8, 2016**

**QUESTION ONE**

**Presently, without any guidance or limitations, the City Charter grants Councilmembers the authority to determine the amount of Councilmember salary by ordinance adopted by the**

**City Council. Are you in favor of amending the Charter to fix the salary of Councilmembers and the salary of the Mayor to an amount equal to 20% and 22.5%, respectively, of the salary of the Charlotte County Commissioners which is determined by the State legislature?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

#### **QUESTION TWO**

**Presently the City Charter provides that a Councilmember may be required to forfeit his/her office, but does not fully identify the grounds for such a forfeiture. Are you in favor of amending the Charter to provide grounds for forfeiture similar to those provided by State law concerning the recall of elected municipal officials, to provide a procedure for forfeiture of office, and extending the time for filling Councilmember vacancies from 10 to 25 days?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

#### **QUESTION THREE**

**Presently the City Charter requires the City Council to meet regularly not less frequently than twice a month. Are you in favor of amending the Charter to provide some flexibility in Council Meeting scheduling to require the City Council to meet regularly but not less frequently than once per month so long as the Council has at least 22 regular meetings per year?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

#### **QUESTION FOUR**

**Presently the City Charter requires at least twenty-four hours' written notice be served personally or left at the Councilmembers place of abode in order to call a special meeting. Other means of service are available, such as by email or telephone. Are you in favor of**



**allowing more flexibility in how Councilmembers are notified of special meetings?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION FIVE**

**Presently the City Charter requires the City to adopt and enforce a policy prohibiting employment discrimination. The language in the City's Charter no longer conforms to State and Federal law concerning employment discrimination. Are you in favor of amending the Charter to provide language consistent with State and Federal law regarding employment discrimination?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION SIX**

**Presently language in the City Charter addressing both the Initiative and Referendum processes is very confusing. In addition, the language regarding the City Council's authority following the results of an election is also confusing. Are you in favor of amending the Charter to eliminate that confusion?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION SEVEN**

**Presently there is ambiguity within the City Charter relating to the right of the Charter Review Committee to employ independent legal counsel to assist in the performance of its duties. Are you in favor of amending the Charter to allow the Charter Review Committee to exercise its discretion to use the services of the City Attorney or to employ independent legal counsel?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION EIGHT**

Presently there is ambiguity within the City Charter relating to the manner of determining the number of electors who must sign a petition seeking a Charter Amendment. Are you in favor of amending the Charter to provide language consistent with State law governing the number of electors needed to sign a petition seeking to propose an amendment of the Charter to the electorate?

YES for Approval [ ]

NO for Rejection [ ]

**QUESTION NINE**

Presently the City Charter does not contain standards of conduct for elected officials, appointed officers, and employees of the City of Punta Gorda. Are you in favor of amending the Charter to provide a new Section requiring compliance with applicable provisions of the Florida Code of Ethics for Public Officers and Employees, and the Code of Conduct adopted by the City Council?

YES for Approval [ ]

NO for Rejection [ ]

**SECTION 5 – NOTICE OF REFERENDUM ELECTION:**

5.01 The City Clerk shall provide public notice of the referendum election in a newspaper of general circulation within the City of Punta Gorda, and shall cause the same to be published once a week for three (3) consecutive weeks immediately preceding the day of election. Said notice shall be substantially in the following form:

**NOTICE OF REFERENDUM ELECTION**

Notice is hereby given that a referendum election will be held on November 8, 2016, in the City of Punta Gorda, Florida to consider the following questions:

**QUESTION ONE**

Presently, without any guidance or limitations, the City Charter grants Councilmembers the authority to determine the amount of Councilmember salary by ordinance adopted by the City Council. Are you in favor of amending the Charter to fix the salary of Councilmembers and the salary of the Mayor to an amount equal to 20% and 22.5%, respectively, of the salary of the Charlotte County Commissioners which is determined by the State legislature?

YES for Approval [  ]

NO for Rejection [  ]

**QUESTION TWO**

Presently the City Charter provides that a Councilmember may be required to forfeit his/her office, but does not fully identify the grounds for such a forfeiture. Are you in favor of amending the Charter to provide grounds for forfeiture similar to those provided by State law concerning the recall of elected municipal officials, to provide a procedure for forfeiture of office, and extending the time for filling Councilmember vacancies from 10 to 25 days?

YES for Approval [  ]

NO for Rejection [  ]

**QUESTION THREE**

Presently the City Charter requires the City Council to meet regularly not less frequently than twice a month. Are you in favor of amending the Charter to provide some flexibility in Council Meeting scheduling to require the City Council to meet regularly but not less frequently than once per month so long as the Council has at least 22 regular meetings per year?

YES for Approval [  ]

NO for Rejection [  ]

**QUESTION FOUR**

**Presently the City Charter requires at least twenty-four hours' written notice be served personally or left at the Councilmembers place of abode in order to call a special meeting. Other means of service are available, such as by email or telephone. Are you in favor of allowing more flexibility in how Councilmembers are notified of special meetings?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION FIVE**

**Presently the City Charter requires the City to adopt and enforce a policy prohibiting employment discrimination. The language in the City's Charter no longer conforms to State and Federal law concerning employment discrimination. Are you in favor of amending the Charter to provide language consistent with State and Federal law regarding employment discrimination?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION SIX**

**Presently language in the City Charter addressing both the Initiative and Referendum processes is very confusing. In addition, the language regarding the City Council's authority following the results of an election is also confusing. Are you in favor of amending the Charter to eliminate that confusion?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION SEVEN**

**Presently there is ambiguity within the City Charter relating to the right of the Charter Review Committee to employ independent legal counsel to assist in the performance of its duties. Are you in favor of amending the Charter to allow the Charter Review Committee to exercise its discretion to use the services of the City Attorney or to employ independent legal counsel?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION EIGHT**

**Presently there is ambiguity within the City Charter relating to the manner of determining the number of electors who must sign a petition seeking a Charter Amendment. Are you in favor of amending the Charter to provide language consistent with State law governing the number of electors needed to sign a petition seeking to propose an amendment of the Charter to the electorate?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

**QUESTION NINE**

**Presently the City Charter does not contain standards of conduct for elected officials, appointed officers, and employees of the City of Punta Gorda. Are you in favor of amending the Charter to provide a new Section requiring compliance with applicable provisions of the Florida Code of Ethics for Public Officers and Employees, and the Code of Conduct adopted by the City Council?**

**YES for Approval [ ]**

**NO for Rejection [ ]**

The complete text of the amendments proposed is contained in City of Punta Gorda Ordinance No. \_\_\_\_\_-16, copies of which may be inspected and are available at the Office of the City Clerk, Punta Gorda City Hall, 326 West Marion Avenue, Punta Gorda, Florida and via the City's website at [www.pgorda.us](http://www.pgorda.us).

The polls will be open at the voting places on the date of such referendum election from 7:00 A.M. to 7:00 P.M. All qualified electors of the City of Punta Gorda, Florida may vote in said election. Absentee voting will be permitted upon compliance with the applicable provisions of general law.

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Karen Smith  
City Clerk  
City of Punta Gorda, Florida

**SECTION 6 – CITY CLERK TO POST COPY OF ORDINANCE AT EACH POLLING PLACE:**

6.01 The City Clerk shall conspicuously post a copy of this Ordinance at each polling place during the hours that polls are open to consider this referendum.

**SECTION 7 – FILING WITH THE SUPERVISOR OF ELECTIONS:**

7.01 The City Clerk is hereby directed to file a certified copy of this Ordinance with the Supervisor of Elections for Charlotte County, Florida upon its adoption.

**SECTION 8 – SEVERABILITY:**


8.01 If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 9 – EFFECTIVE DATE:**

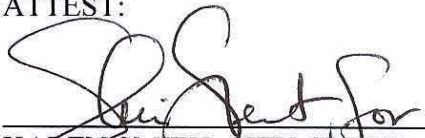
9.01 This Ordinance shall take effect immediately upon its adoption by the City Council.

Read by title only in public session this 13<sup>th</sup> day of July, 2016.

**PASSED AND ADOPTED** as an Ordinance in public session this 31<sup>st</sup> day of July, 2016.

  
\_\_\_\_\_  
RACHEL KEESLING, MAYOR

ATTEST:

  
\_\_\_\_\_  
KAREN SMITH, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

  
\_\_\_\_\_  
DAVID M. LEVIN, CITY ATTORNEY