

ORDINANCE NO. 1482

AN ORDINANCE OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S CHARTER TO DISSOLVE THE CITY'S CIVIL SERVICE SYSTEM; AMENDING THE CITY'S CHARTER TO REQUIRE THE CREATION OF A CIVIL SERVICE SYSTEM; AMENDING THE CITY'S CODE OF ORDINANCES TO ESTABLISH THE CITY'S CIVIL SERVICE BOARD AND CIVIL SERVICE SYSTEM; PROVIDING AN EFFECTIVE DATE; PROVIDING THAT THE AMENDMENT PROPOSED SHALL BE EFFECTIVE ONLY UPON THE APPROVAL OF REFERENDUM AS SPECIFIED IN THE ORDINANCE AND REPEALING ORDINANCES IN CONFLICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH:

SECTION 1. From and after the effective date of this ordinance, Article VI of the City Charter of the City of Panama City Beach, related to Civil Service is hereby repealed.

SECTION 2. From and after the effective date of this ordinance, Article VI of the City Charter of the City of Panama City Beach, related to Civil Service is created to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Sec. 6-1. - Civil Service System.**

- (a) **The City Council shall create, by ordinance, a Civil Service System. The City Council shall adopt rules setting the substantive rights, duties, and conditions for the Civil Service System, Civil Service Membership, employment, promotion, discipline, and removal to all**

authorized, permanent positions filled by the City, based on merit, efficiency, character and industry.

SECTION 3. From and after the effective date of this ordinance Section 3-5 of the City Charter of the City of Panama City Beach, related to powers and duties of the City Manager is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

**Sec. 3-5. - Same—Powers and duties.**

The City Manager shall be the chief administrative officer of the City and shall be responsible to the City Council for the administration of all City affairs placed in his/her charge by this Charter or by ordinances of the City. To that end, he/she shall have the following powers and duties:

- (a) He/she shall appoint, supervise, regulate and, when he/she deems it necessary for the good of the City, discipline, demote, suspend or remove any City employee or appointed administrative officer, except the City Clerk and the City Attorney, subject to **any due process or grievance procedures** ~~provisions then in effect, of Article 6 of this Charter.~~ He/she may promulgate personnel rules and regulations for City employees. He/she may authorize any subordinate officer or employee to exercise such powers with respect to subordinates in turn; provided, that the City Manager shall, in all cases, retain the right to alter or deny any determination made by such subordinates.
- (b) He/she shall direct, supervise and be responsible for the administration of all departments, divisions, offices and positions of the City government, and may delegate to his/her subordinate officers and employees those powers which are necessary or expedient to the proper management, control and function of such departments, divisions, offices and positions.
- (c) He/she shall have the power to create, combine or discontinue any administrative departments, divisions, offices and positions, subject to the **due process or grievance procedures then in effect** ~~requirements of Article 6 of this Charter~~ and subject to approval by the City Council. In so doing, he/she shall have the power to determine, consolidate, combine or distribute the functions and duties of such administrative departments, divisions, offices and positions.
- (d) He/she shall ensure that all laws, provisions of this Charter, ordinances and other acts of the City Council, subject to enforcement by him/her or his/her subordinates, are faithfully executed.
- (e) He/she shall attend all meetings of the City Council and shall have the right to take part in all discussions though not to vote on any matter.
- (f) He/she shall have the right to recommend to the City Council for adoption such measures as he/she may deem necessary or expedient to the interests of the City.

(g) He/she shall keep the City Council fully advised as to the financial conditions and future needs of the City and shall, as he/she deems advisable, make recommendations to the City Council concerning the financial affairs of the City.

(h) As soon as practicable after the close of each fiscal year, he/she shall submit to the City Council a complete report on the finances and on the financial and administrative activities of the City government for the preceding fiscal year. He/she shall make such other reports as the City Council may require concerning the operation of the departments, divisions, offices and positions of the City government subject to his/her direction and supervision.

(i) Pursuant to the provisions of Section 5-2 of this Charter, he/she shall annually prepare a proposed budget to be submitted to the City Council for its consideration.

(j) Subject to the provisions of this Charter relative to purchases, contracts and competitive bidding, he/she shall purchase services, supplies, materials and equipment; provided, that such purchases are in conformance with the requirements of this Charter, state law and the ordinances of the City. Purchases shall be made only on behalf of the City pursuant to the provisions of appropriation ordinances or resolutions. The City shall not be liable for any service, supply, material or equipment furnished to the City unless the City Council shall have previously made an appropriation therefor. No contract shall be let for the construction of public improvements except in accordance with the directions of the City Council.

(k) He/she shall sign such contracts, bonds and agreements of the City as are required by this Charter or ordinances of the City or as directed by the City Council.

(l) He/she shall be responsible for the collection of all revenues and monies due the City and shall maintain proper records of such collections. He/she shall be responsible for the disbursement of all City monies and shall maintain proper records of such disbursements.

(m) He/she shall maintain a uniform system of accounts in which shall be entered all financial transactions of the City. He/she shall establish and require the maintenance of a uniform system of accounting for each administrative department, division, office or position of the City, and may audit such accounts at his/her discretion.

(n) He/she shall perform such other duties and shall have such other powers as are specified by this Charter or ordinances or resolutions of the City or as the City Council may require from time to time.

SECTION 4. From and after the effective date of this ordinance Division I, Article III, Chapter 2 of the Code of Ordinances of the City of Panama City Beach, related to Officers and Employees is amended to read as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

### **Sec. 2-43. – Civil Service System, membership.**

All employees on the payrolls of the City in authorized, permanent positions shall be members of the Civil Service, except the City Manager, the City Clerk and the City Attorney, and such assistant positions as each may establish. All authorized, permanent positions requiring full-time or part-time employees, excluding the City Manager, the City Clerk and the City Attorney, and their assistants, shall be filled from among applicants who have appeared before the Board of Civil Service Commissioners of the City, have satisfactorily completed the prescribed examination and have been recommended for employment or promotion by the aforementioned Board.

Except as otherwise prescribed herein, all persons regularly employed in a position permanently authorized by the City on the effective date of this Section or any amendment to this Section are confirmed in office, rank or employment as members of the Civil Service.

### **Sec. 2-44 - Probationary periods.**

Neither initial appointment nor promotion to an authorized, permanent position shall be deemed complete until a probationary period of one year has elapsed. A probationer may be reclassified or discharged at any time within the same period of one year by the City Manager. If the employee is not discharged during the probationary period of one year, then his/her employment or promotion shall be deemed complete and the employee shall become a regular employee. However, if an employee is in the process of completing the educational minimum for his/her position, the period of probation may be extended until the employee fulfills this requirement. In the event an employee promoted to a higher classification fails to become a regular employee at the termination of the probationary period, the probationer shall have the option to revert to the position held by him/her prior to such promotion.

### **Sec. 2-45. - Terms of office; reduction in grade, rank or pay.**

Members of the Civil Service shall hold office or employment during good behavior and the satisfactory performance of duties. No member of the Civil Service shall be reduced in grade or rank, nor suffer any loss in pay, except as provided in Sections 2-46 through 2-48, inclusive, of this article.

### **Sec. 2-46. - Reductions in force; preferred listing for re-employment.**

When the number of employees in any department becomes excessive through either re-organization or modification of the work load, the City Manager shall certify this fact to the City Council, who shall cause an investigation to be made. If such investigation confirms the statement of the City Manager, then the City Council shall have the right to terminate the employment of the excess personnel; provided, that the person who stands lowest in rank or classification, shall be the first discharged, and this system of discharge shall continue until the necessary reduction in the number of personnel has been accomplished; and provided, that persons so discharged shall be placed upon a preferred list by the City Manager, and shall be given priority for re-employment. When a vacancy occurs in any

department it will, if practicable, be filled by the re-employment of a person whose name is carried on the preferred list, beginning with that individual whose priority is established by rank or classification and seniority. The City Manager shall fill all vacancies from the preferred list, so far as practicable. Position on the preferred list shall be determined first by rank or classification and then by seniority within that rank.

## **Sec. 2-47. - Removals, suspensions, fines and discharges.**

No member of Civil Service shall be removed, suspended, fined, discharged or caused to suffer any other prejudicial action, except for cause shown upon written charges of misconduct, or violation of law, ordinances, rules of Civil Service or personnel policies of the City. Charges shall be in letter form and shall state concisely the specific charges against the member. Such punitive action shall be reported to the Board of Civil Service Commissioners as soon as practical after such charge is issued, but not later than seventy-two hours after issuance. As provided below, the member shall be afforded an opportunity to appeal the suspension or other punitive action in writing to the Board of Civil Service Commissioners and to be heard in his/her own defense. Such charges shall be inquired into by and before said Board and a determination will be made as to whether the action of the City Manager was warranted or unwarranted. These requirements do not apply when action set forth in Sections 2-44(probationary period) or 2-46 (reduction in force) of this article is being followed.

*Suspension:* The City Manager or head of any department may immediately suspend a subordinate for a reasonable period of no more than thirty (30) days. The employee so suspended may appeal in writing to be heard in his/her own defense. The findings and decision of the Board shall be final and shall be certified to the City Manager. If the Board determines that the suspension was unwarranted and without just cause, the member concerned shall be restored to duty immediately and he/she shall be paid any salary and benefits lost as a result of the suspension.

*Other Punitive Action.* The City Manager may immediately remove, fine, discharge or otherwise discipline a member as permitted by applicable law. The member so disciplined may appeal in writing to be heard in his/her own defense. If the Board determines that the discipline was unwarranted and without just cause, the City Manager may impose within three (3) business days thereafter a lesser form of discipline which the member may also appeal to the Board. In the event that the City Manager has also suspended the member, that suspension shall extend until three (3) business days after the Board makes a final decision upon the first or any subsequent, lessor disciplinary action imposed by the City Manager or until the City Manager shall lift the extended suspension.

## **Sec. 2-48. - Incompetence, neglect of duty, insubordination, etc.**

Any member of the Civil Service who shall be incompetent, neglectful of his/her duty, guilty of insubordination, immorality or drunkenness or who fails to meet his/her just and honorable financial obligations or conducts himself/herself in such manner as to reflect discredit upon his/her fellow employees or the City or both shall be subject to suspension, demotion, or discharge as provided in Section 2-47.

**Any employee affected by this article who shall, while on duty, engage in political activity either federal, state, county or city, shall be subject to demotion, suspension or discharge; provided, however, that nothing herein contained shall prevent any employee from voting in any election.**

SECTION 5. From and after the effective date of this ordinance Division 3, Article V, Chapter 2 of the Code of Ordinances of the City of Panama City Beach, related to Boards, Commissions, and Committees is created to read as follows:

### **DIVISION 3. -CIVIL SERVICE BOARD**

#### **Sec. 2-222. - Board of Civil Service Commissioners.**

(a) *Continuation of present board.* The Board of Civil Service Commissioners for the City, established by Section 12 of Chapter 70-874, Special Laws of Florida, shall continue as presently constituted. The members of the Board of Civil Service Commissioners shall continue to hold office as provided in said Act until their successors have been selected and have taken office pursuant to this section.

(b) *Composition; qualifications and selection of members.* The Board of Civil Service Commissioners shall be composed of five (5) members who shall be qualified electors of the City of Panama City Beach and who shall be selected as follows: one member shall be named and designated by the City Council during the first fifteen (15) days of September of each year; one member shall be named and designated by the employees affected by the provisions of this article during the first fifteen (15) days of September of each year; and one member shall be named and designated during the last fifteen (15) days of September of each even-numbered year by the four (4) members then serving.

(c) *Terms.* The term of office for each member of the Board of Civil Service Commissioners, elected to office as prescribed herein, shall be for two years beginning the first Wednesday in October of the year in which he/she was elected and terminating at midnight or the day preceding the first Wednesday of October of the second year.

(d) *Vacancies.* Whenever vacancies occur in the office of Civil Service Commissioners by death, resignation or otherwise, a successor shall be elected in the same manner as that in which the position was filled originally. Such successor shall be elected to serve for the unexpired term of his/her predecessor in office. Such vacancy shall be filled no more than fifteen (15) days after such vacancy occurs.

(e) *Ineligible persons.* No person who has been convicted of a felony or who is an officer or

employee of the City shall be eligible to hold office as a Commissioner of Civil Service.

(f) *Compensation.* Each Civil Service Commissioner named under this section as provided herein shall receive as compensation for his/her services the sum of one hundred twenty dollars (\$120.00) per annum.

(g) *Staff.* The City shall secure such legal counselors, clerks, and stenographers, including a full-time secretary, as may be required to assist the Board of Civil Service Commissioners.

(h) *Funding.* The City Council shall budget and appropriate a sum sufficient to properly organize and maintain the Civil Service Department as herein delineated and shall appropriate a sum of money each year sufficient to carry out the purposes of this article.

(i) *Chairperson.* Immediately after the election of the Board of Civil Service Commissioners as prescribed in this section, the Board shall organize itself by electing one of its members chairperson, to hold such office at the pleasure of the majority of the Board membership.

(j) *Meetings.* The Board of Civil Service Commissioners shall meet monthly to conduct such business as may properly be brought before the Board and shall be subject to call by the chairperson for such additional meetings as circumstances require. All hearings on all charges under Section 2-54 of this article shall be open, unless the employee against whom the charges are pending submits in advance of that hearing a written petition to the Board of Civil Service Commissioners for a private hearing and the legal basis therefor, and the Board finds good cause established under Florida law to permit the private hearing and grants such request.

(k) *Record.* A record of all business conducted by the Board of Civil Service Commissioners shall be maintained by the secretary of the Civil Service Board. This record shall be available, upon request, to the members of the City Council and otherwise as required by law.

(l) *Powers.* The Board shall hear and determine appeals from prejudicial employment actions of Civil Service members, and perform any other acts directed by the City Council related to the City's Civil Service System. When inquiring into charges and hearing appeal by and before the Board of Civil Service Commissioners, each member thereof shall have the power to administer oaths, and the Board is authorized to compel by subpoena the attendance and testimony of witnesses and the production of books, papers and other data relevant to such inquiry or hearing.

## **Sec. 2-223. - Promulgation of rules.**

The Board shall adopt rules for the practice and procedure for discharge of its duties, including the time for seeking an appeal of any disciplinary action and the conduct of hearings before it, which shall have the force and effect of law. The Board shall make investigations, both as to the individuals and as to the departments, in carrying out the enforcement of Section 2-222 and the rules adopted hereunder. The exceptions set forth in Section 2-43 of the City's Code of Ordinances shall apply with equal force to this section.

**SECTION 6.** If approved by referendum as provided in this Ordinance,

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the appropriate officers and agents of the City are authorized and directed to codify, include and publish the provisions of this Ordinance within the Panama City Beach Charter.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 8. This Ordinance shall take effect immediately upon passage, but the amendment proposed hereby shall become effective immediately upon approval by a majority of the electors of the City voting in the next general election or special election called for such purpose; and if the electors shall not approve the amendment proposed by this Ordinance at such referendum, or should no referendum be held within one (1) year from the passage of this Ordinance, then the proposal not approved shall be void and of no force and effect.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Panama City Beach, Florida, this 10<sup>th</sup> day of

January, 2019.

  
MAYOR

ATTEST:

  
CITY CLERK

EXAMINED AND APPROVED by me this 10<sup>th</sup> day of January, 2019.

  
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MAYOR

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