



Memorandum

To: Mayor and City Council
From: Samantha D. Abell, City Manager
Date: June 2, 2022
Subject: Ordinance 02-2022 Providing for Referendum on Restated City Charter

REQUEST:

That the Council consider on First Reading Ordinance 02-2022, and schedule the Second Reading and Public Hearing for June 20, 2022, on Ordinance 02-2022, which will provide for a referendum election to be held on November 8, 2022, to submit to the electors of the City the approval or disapproval of a proposal to repeal and replace the existing City Charter with a new comprehensively reworded City Charter that maintains the City's Council-Manager form of government, changes the term of the Mayor to four years, and updates other provisions as stated in the ordinance. The ordinance further provides for the ballot question and that the restated Charter, if approved by the electorate, would become effective on January 1, 2023.

BACKGROUND:

It is a local government best practice to review and periodically update a city's charter. The City Council appointed a Charter Review Committee in December of 2019, which determined that the Charter's general provisions require updating. The changes do not reflect a change in the City's Council-Manager form of government. Rather, the committee recommends the approval of a restated charter after review of more current charters of 10 other cities that are similar to Gulf Breeze, a national model charter, and information from other sources.

Last November 1, 2021, Charter Review Committee Chairman and attorney Tim Burr made a presentation to the City Council on the work of the Charter Review Committee. Here is a recap of that presentation:

The Committee began meeting on January 29, 2020, and met a total of 7 times between the first meeting and June 8, 2021. Additionally, the Committee held two public workshops in March of 2020 prior to suspending work due to COVID. Some highlights of the Committee's meetings include:

- Presentations from the City Attorney and City Clerk, and reviewed a PowerPoint from the Florida League of Cities, on the purpose of a charter and the charter review process;
- Reviewed 10 charters identified by the Florida League of Cities as modern charters from successful and progressive cities with populations and characteristics similar to Gulf Breeze;
- Reviewed a Model Municipal Charter published by the National League of Cities;
- Went through the current charter section-by-section and discussed the language and substance;
- Reviewed redlines and drafts of revisions to the current charter prepared by the City Attorney on the basis of the Committee's discussions;
- Considered whether to revise the current Charter or restate it in full;
- Considered a draft restated Charter and, after discussions and revisions, determined that the draft restated Charter dated June 21, 2021, which has been provided to the is the best approach.

Additionally, on May 16, 2022, the City Council and the Charter Review Committee members met in a joint public workshop to review the restated Charter. Discussion on the restated Charter was favorable and at its meeting following the joint workshop the Council voted to move forward with an ordinance to set the referendum election on the restated Charter.

DISCUSSION:

Florida Statutes, Section 166.031(1), governs the adoption of amendments to a city charter, and requires that amendments to any part of or all of a charter be submitted to the electors of the municipality. The restated Charter proposed by the City's Charter Review Committee complies with the provisions of this statute, and the adoption of Ordinance 02-2022 will set the required referendum in accordance with Florida Statutes, Section 101.161, which governs ballot questions and the setting of referendums.

Through adoption of Ordinance 02-2022, the Council will therefore approve of setting a referendum election for November 8, 2022, for the purpose of submitting to the electors of the City the approval or disapproval of the proposal to repeal and replace the existing City Charter with a new comprehensively reworded City Charter that maintains the City's Council-Manager form of government, changes the term of the Mayor to four years, and updates other provisions as stated in the ordinance. The ordinance further provides for the ballot question and that the restated Charter, if approved by the electorate, would become effective on January 1, 2023.

The full text of the proposed restated Charter and the proposed ballot question are included in Ordinance 02-2022, a copy of which is attached. A copy of the current City Charter is also attached.

FINANCIAL IMPACT:

None

RECOMMENDATION:

That the Council approve on First Reading Ordinance 02-2022, and schedule the Second Reading and Public Hearing on for June 20, 2022 on Ordinance 02-2022, which will provide for a referendum election to be held on November 8, 2022, to submit to the electors of the City the approval or disapproval of a proposal to repeal and replace the existing City Charter with a new comprehensively reworded City Charter that maintains the City's Council-Manager form of government, changes the term of the Mayor to four years, and updates other provisions as stated in the ordinance, and which also provides for the ballot question and that the restated Charter, if approved by the electorate, would become effective on January 1, 2023.

ATTACHED:

[ORDINANCE NO. 02-2022 Setting Referendum for Restated Charter City of Gulf Breeze Current Charter.pdf](#)

ORDINANCE NO. 02-2022

AN ORDINANCE OF THE CITY OF GULF BREEZE, FLORIDA, CALLING FOR AN ELECTION TO BE HELD ON NOVEMBER 8, 2022, PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL OF A PROPOSAL TO REPEAL AND REPLACE THE EXISTING CITY CHARTER WITH A NEW COMPREHENSIVELY REWORDED CITY CHARTER THAT MAINTAINS THE CITY'S COUNCIL-MANAGER FORM OF GOVERNMENT, CHANGES THE TERM OF THE MAYOR TO FOUR YEARS, AND UPDATES OTHER PROVISIONS AS STATED HEREIN BELOW; ESTABLISHING BALLOT TITLES AND SUMMARIES; PROVIDING FOR CONFORMANCE; PROVIDING SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes, Section 166.031(1) provides, in part, that “[t]he governing body of a municipality may, by ordinance, . . . submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality”; and

WHEREAS, through the adoption of Resolution 57-2019 on December 16, 2019, the City Council of the City of Gulf Breeze created a Charter Review Committee to review the current Charter of the City of Gulf Breeze and make recommendations as to any changes to the City Charter; and

WHEREAS, the Charter Review Committee met a total of seven times starting on January 29, 2020, held two public workshops in March of 2020, considered information from the Florida League of Cities and other sources on the purpose of a Charter and the review process, reviewed the Charters of ten other municipalities similar to Gulf Breeze, thoroughly reviewed each section of the Gulf Breeze Charter, and worked with the City staff and City Attorney to draft a comprehensively worded restated Charter that maintains the City’s Council-Manager form of government, changes the term of the Mayor to four years, and updates other provisions; and

WHEREAS, at its meeting on June 8, 2022, the Charter Review Committee finalized the proposed restated City Charter; and

WHEREAS, the Charter Review Committee recommended the proposed restated Charter to the City Council in a joint workshop of the Council and Charter Review Committee on May 16, 2022; and

WHEREAS, the proposed restated City Charter is required to be submitted to the electors of the City of Gulf Breeze for their consideration and approval before becoming effective;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF BREEZE, AS FOLLOWS:

SECTION 1. Election Referendum Set. The City Council calls for the holding of a referendum of the electors of the City of Gulf Breeze on November 8, 2022, to consider and vote for or against the approval of the proposed City Charter revisions as herein below approved by the City Council.

SECTION 2. Ballot Titles and Summaries. The ballot title and summary to appear on the ballot of the referendum on the proposed City Charter revisions shall be:

**CITY OF GULF BREEZE
CHARTER REVISION QUESTION**

**CHARTER AMENDMENT
RELATING TO A NEW CITY CHARTER FOR THE CITY OF GULF BREEZE,
FLORIDA**

Shall the current City Charter be repealed and replaced with a comprehensively restated Charter that conforms to municipal home rule powers granted by Florida Law; maintains the City’s Council-Manager form of government; changes the term of the Mayor to four years; describes and clarifies the duties, responsibilities and authority of City officials; and updates other provisions and language?

YES For adopting the restated City Charter
 NO Against adopting the restated City Charter

SECTION 3. Publication of Notice. The appropriate officials shall cause to be published in a newspaper of general circulation in the City the notices of the referendum required by Florida law.

SECTION 4. Charter Amendments. In the event the foregoing Charter Revision Question (Section 2 above) is approved by a majority of the electors voting on the proposal, on November 8, 2022, the existing Charter included as Exhibit “A” hereto shall be repealed in its entirety, depending on the results of the referendum (provided that all extra territorial powers of the City conferred by special act or otherwise are preserved and can be repealed or modified only

by further referendum or as otherwise provided by law) and the following new Charter for the City of Gulf Breeze shall in its entirety, depending on the results of the referendum, replace the existing Charter and become effective on January 1, 2023:

CHARTER FOR THE CITY OF GULF BREEZE

ARTICLE I. PURPOSE OF CHARTER AND GENERAL POWERS OF THE CITY

Section 1.01. Purpose of Charter.

We, the people of the City of Gulf Breeze, Florida, desiring to affirm our right to a home rule charter form of government, do ordain and adopt, in accordance with the constitution and laws of the State of Florida, this organic structure as our form of government for the City of Gulf Breeze, Florida.

Section 1.02. General Powers and Corporate Existence.

The municipal corporation now existing and known as the City of Gulf Breeze ("City"), located in Santa Rosa County, Florida, within the boundaries hereinafter described, shall continue to be a body politic and corporate, and shall have on behalf of its citizens all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may on behalf of its citizens exercise any power for municipal purposes except when expressly prohibited by law.

Section 1.03. Construction.

The powers of the City established under this Charter on behalf of its citizens shall be construed liberally in favor of the City, and the specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power of the City as granted in this Article to act on behalf of its citizens.

ARTICLE II. CORPORATE BOUNDARIES

Section 2.01. Corporate Boundaries.

(a) The corporate boundaries of the City of Gulf Breeze shall remain as they exist on the date this Charter takes effect, as follows:

Beginning at the southeasterly corner of partial Section 2, Township 3 South, Range

29 West; thence northwesterly along the eastern boundary of said Section 2 to the southeasterly corner of Section 34, Township 2 South, Range 29 West; thence northwesterly along the easterly boundary of said Section 34 to the northeasterly corner of said Section 34; thence southwesterly along the northerly boundary of said Section 34 to the northwesterly corner of said Section 34; thence northwesterly along an extension of the westerly boundary of said Section 34 to the Santa Rosa County line; thence southwesterly, southerly, southeasterly and easterly along the meandering Santa Rosa County line to a point on said county line intercepting an extension of the eastern boundary of partial Section 2, Township 3 South, Range 29 West; thence northerly along said line to the point of beginning.

(b) The City shall have the power to change its boundaries consistent with the requirements of Florida law.

ARTICLE III. COMPOSITION OF CITY GOVERNMENT

Section 3.01. Form of Government.

The City shall remain a Council-Manager form of government, under which there shall be a City Council (hereinafter the "Council"), which shall enact local legislation, adopt budgets, determine policies, and appoint a City Manager and a City Attorney as hereinafter prescribed. Except as limited in this Charter, the City Manager shall execute the policies and laws established by the Council and administer the government of the City.

Section 3.02. Council, Election and Terms, Procedures.

(a) The Council shall be comprised of five (5) members, who shall serve as the collective head of the City government. All members of the Council shall be elected at large by a majority vote of the qualified voters of the City voting in the general election. One council office shall be the office of Mayor. The other four (4) council offices shall be designated by separate seats ("A," "B," "C" and "D"). All members of the Council, including the Mayor, shall take office thirty (30) days after the general election in which they are elected.

(b) The terms of each Council office shall be four (4) years. Terms of office for members of the Council other than the office of Mayor, shall be staggered such that two offices of Council are elected for their four (4) year terms at the general election every two (2) years. The first four (4) year term of the office of Mayor shall commence with the general election of 2024.

(c) All elected officials who are in office at the time of adoption of this Charter shall continue in office until the terms to which they were previously elected expire or are otherwise limited or terminated; and, for such additional consecutive terms for which they seek and win election. Nothing in this Charter, except as specifically provided herein, shall

affect the rights, privileges, or immunities of elected or appointed officials, existing at the time of adoption of this Charter.

(d) No person shall be elected to the Council who is not a qualified elector and resident of the City. A member ceasing to possess any of the qualifications specified in this section, convicted of a felony while in office, or fails to attend three (3) consecutive meetings of the Council unless such absence is excused by vote of the Council, shall immediately forfeit their office.

(e) Vacancies in any elective office of the City during the term of the officeholder shall be filled by vote of the Council and the person selected shall serve until the next general election of the City.

(f) No salary, in excess of one dollar (\$1.00) per year, shall be paid to the Council or Mayor.

(g) The Council shall meet regularly at such times and places as the Council may prescribe by ordinance. The Council shall determine its own meeting rules and order of business and shall keep minutes of all proceedings.

(h) A majority of the members of the Council physically present at a meeting shall constitute a quorum to do business. The affirmative vote of a majority of a quorum present shall be necessary to enact any ordinance, adopt any resolution, or otherwise take action.

(i) The Council shall provide for an independent annual audit of all City accounts consistent with the requirements of Florida law and may provide for more frequent audits as it deems necessary.

(j) The Council shall adopt by ordinance a Procurement Code to provide for: 1) the method of making contracts and incurring obligations for the operation of the City; 2) thresholds requiring approval of expenditures through Council action; and 3) adoption by resolution of purchasing policies and procedures to guide City officials and employees in their procurement of goods and services for the City.

Section 3.03. Mayor.

(a) The Mayor shall preside at all meetings of the Council, and shall perform the duties commensurate with such office, including execution of contracts and agreements as authorized by the Council, and which duties may include representing the collective Council when the Council is not in session and representing the City in interlocal matters unless the Council appoints another Council member for such representation.

(b) A Mayor Pro Tem of the City shall be elected by a majority of the Council from one of its members within a period of forty-five (45) days after the election. During the absence or disability of the Mayor, the Mayor Pro Tem shall act as Mayor and shall perform the duties commensurate with such office.

Section 3.04. City Administration and Appointed Officers.

(a) The City Manager and the City Attorney shall be appointed by the Council and each shall hold office at the pleasure of the Council. No person holding elective office shall be eligible for municipal appointive office. The Council shall set the compensation for the City Manager and the City Attorney.

(b) The City Manager shall be responsible to the Council for the proper administration of all affairs of the City, and shall have the power and be required to:

- (1) Keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City, including matters involving budget and procurement, as deemed by the City Manager to be in the best interests of the City;
- (2) Adhere to procurement limits established in any and all Procurement Code(s) and procedures as may be adopted by the council;
- (3) Be responsible for the hiring, supervision, and removal of all City employees, except as otherwise provided in this Charter;
- (4) Direct all departments of the City, but not City boards or agencies, unless so directed by the Council from time to time;
- (5) Attend Council meetings and have the right to take part in discussion, but with no right to vote;
- (6) Ensure that all City ordinances, policies, provisions of this Charter and acts of the Council are faithfully executed; and
- (7) Perform such other duties as may be required by the Council.

(c) The City Attorney shall report to the Council and shall be the chief legal advisor to all offices and departments of the City in matters relating to their official powers and duties. Nothing contained herein shall prohibit the City or its duly constituted officials from employing special counsel and compensating the same as may be necessary.

(d) The City Clerk, Police Chief, and Fire Chief shall be appointed by the City Manager, but they shall take their oath of office before the Council. Deputies may also be appointed by the City Manager to perform the duties of these officers in their absence.

Section 3.05. City Boards and Authorities.

(a) Unless otherwise provided by law, the Council shall establish or terminate by ordinance such boards and authorities as it may deem advisable from time to time.

(b) Unless otherwise provided by law, the Council shall determine membership and removal from City boards and authorities.

Section 3.06. Code of Ethics.

All members of the Council, members of City boards, City officials and employees shall be subject to and abide by the Code of Ethics for public officers and employees as set forth in Florida Statutes and other applicable law.

**ARTICLE IV.
ELECTIONS**

Section 4.01. Nonpartisan Elections.

All nominations and elections for the Mayor and other Council Members shall be conducted on a nonpartisan basis.

Section 4.02. Electors.

Any person who is a resident of the City and who has been assigned a voter registration number by the County Supervisor of Elections to vote as a qualified Florida elector shall be an elector of the City.

Section 4.03. Supervision of Elections.

The Santa Rosa County Supervisor of Elections conducts elections on behalf of the City pursuant to an interlocal agreement.

Section 4.04. Candidates.

The provisions of the general laws of Florida pertaining to municipal elections, registrations, manner of voting, qualifications of electors, duties of election officers, canvassing returns and the general holding and management of elections for municipal office shall apply.

**ARTICLE V.
CHARTER AMENDMENTS**

Section 5.01. Charter Amendments.

(a) **Initiation by Council.** The Council may propose amendments by ordinance to this Charter. Upon adoption of the initiating ordinance, the Council shall submit the proposed amendment to a vote of the electors at the next general election held within the City or at a special election called for such purpose.

(b) Initiation by Petition. The electors of the City may propose amendments to this Charter in accordance with Florida law.

(c) Consistency. The method for Charter amendments shall be consistent with Florida law.

ARTICLE VI. SCHEDULE

Section 6.01. Effective Date.

Upon approval of a majority of the electorate voting at a referendum on this Charter, this Charter will become effective on January 1, 2023.

Section 6.02. Ordinances Preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

Section 6.03. Repeal of Former Charter Provisions.

All Charter provisions in effect prior to the effective date of this Charter are repealed.

Section 6.04. Precedence Over Code Provisions.

If a conflict exists between the provisions of this Charter and the Code of Ordinances, the Charter provisions shall prevail.

Section 6.05. Officers and Employees.

The adoption of this Charter shall not affect or impair the rights, privileges or immunities of City officers or employees at the time of the effective date of this Charter, including rights provided for pursuant to Florida Statutes and collective bargaining agreements.

Section 6.06. Existing Rights, Obligations, Duties and Relationships.

(a) Continuity. All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the City shall continue except as modified pursuant to the provisions of this Charter.

(b) Obligations. No debt, contract obligation, or assessment by the City shall be impaired by adoption of this Charter. All existing debts, obligations and assessments shall remain valid and enforceable, according to their terms, under the Charter provisions applicable at the time the debt was incurred, contract signed, or assessment imposed. All obligations and

rights arising in connection with projects financed under former Charter provisions shall be unaffected and remain in full force and effect as if the borrowing, taxing, bonding or other financing provisions had survived the adoption of this Charter.

(c) Other Government Units. All existing rights, obligations, duties and relationships by law or agreement between the City and other governmental units shall be unaffected by the adoption of this Charter and remain in full force and effect.

Section 6.07. Severability.

If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, the court decision invalidating any section or part of said section shall not affect the remainder of this Charter or the context in which the invalidated section or part of section may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which the court decision may directly apply.

[END OF CHARTER REVISIONS]

SECTION 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the validity of any part.

SECTION 6. Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. Effective Date. This ordinance shall take effect immediately upon its adoption by the City Council.

**PASSED ON THE FIRST READING ON THE __ DAY OF _____, 2022
ADVERTISED ON THE __ DAY OF _____, 2022.**

PASSED ON THE SECOND READING ON THE __ DAY OF _____, 2022.

CITY OF GULF BREEZE, FLORIDA

**By: _____
Cherry M. Fitch, Mayor**

ATTEST

Leslie A. Guyer, CMC, City Clerk

Subpart A - CHARTER

An Act creating and establishing a municipality to be known as the City of Gulf Breeze; providing boundaries and providing for and authorizing the extension of boundaries hereby established; providing for powers, rights and liabilities of said city; providing for city government of elected city council and mayor; providing for powers, duties and term of office of city council and mayor; providing for elections; providing for candidacy for office; providing for oath of office; providing for recall elections; providing for municipal court and jurisdiction, powers, duties and procedure of said court; prohibiting contracts with city by city officers or employees; providing for tax power of city council; providing severability clause; providing for referendum.

Be it enacted by the Legislature of the State of Florida:

Footnotes:

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Editor's note— Printed herein is the city charter, Laws of Fla. Chapter 61-2207. Amendments subsequent to November 2, 1965, are included in this publication and are indicated by the history note following the amended section. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

Section 1. - [Incorporation; boundaries.]

The inhabitants of the lands within the boundaries hereinafter designated shall constitute a body, politic and corporate, under the name of City of Gulf Breeze, and as such shall have perpetual succession, may use a common seal, may contract and be contracted with, may sue and be sued and do all acts allowed by the laws of the State of Florida to conduct itself as a municipal corporation. The territorial boundaries and limits of the City of Gulf Breeze, in Santa Rosa County, are and shall be as follows:

Beginning at the southeasterly corner of partial Section 2, Township 3 South, Range 29 West; thence northwesterly along the eastern boundary of said Section 2 to the southeasterly corner of Section 34, Township 2 South, Range 29 West; thence northwesterly along the easterly boundary of said Section 34 to the northeasterly corner of said Section 34; thence southwesterly along the northerly boundary of said Section 34 to the northwesterly corner of said Section 34; thence northwesterly along an extension of the westerly boundary of said Section 34 to the Santa Rosa County line; thence southwesterly, southerly, southeasterly and easterly along the meandering Santa Rosa County line to a point on said county line intercepting an extension of the eastern boundary of partial Section 2, Township 3 South, Range 29 West; thence northerly along said line to the point of beginning.

The territorial limits of said municipality shall also include any and all areas which shall be annexed thereto in the manner provided under the general laws of Florida.

Section 2. - Powers, rights and privileges.

- (a) The City of Gulf Breeze shall have, exercise and enjoy all the rights, immunities, benefits, powers and franchises and privileges that are conferred by law upon municipal corporations under the Statutes of

Florida except where specifically modified or amended herein.

(b)—(s) [Editorially deleted.]

(Laws of Fla. ch. 69-1081, § 2)

Editor's note— Subsections (b)—(s) have been editorially deleted as all limitations on the exercise of municipal home rule powers were repealed by F.S. § 166.021 in recognition of municipal home rule pursuant to the constitution and F.S. ch. 166.

Section 3. - Creation and composition of city government.

- (a) The government of the city and all powers of the city, its administration and government shall be vested in a city council with the presiding officer being the mayor.
- (b) The city council shall be comprised of five (5) members. One council office of the city council may be the office of mayor, which shall be a separate office and qualified electors offering themselves as candidates shall file for that office and in that event, there shall be four (4) qualified electors elected to the office of city council. There shall be separate elections for each city council office. Each council office, except the office of mayor, shall be designated by separate seats ("A," "B," "C" and "D"). All members of the city council shall be elected at-large throughout the city and shall be elected by a majority vote of the qualified voters of the city voting in the particular election. Each qualified elector may vote for one candidate for each city council office then to be elected.

Should there be no candidate for the office of mayor, the city council shall select a mayor within a period of forty-five (45) days after the election, either from among their members or may appoint a mayor from the qualified electors of the city. Should a mayor be appointed from the qualified electors of the city, he shall be the presiding officer of the council and the executive officer of the city, but shall not have the right or power to cast any vote in the deliberations of the city council.

- (c) The mayor shall act as executive officer of the city and shall perform the duties commensurate with such office. The mayor pro tem of the city shall be elected by a majority of the council from one of its members within a period of forty-five (45) days after the election. During the absence or disability of the mayor, the mayor pro tem shall act as mayor and shall perform the duties commensurate with such office.
- (d) The term of mayor shall be two (2) years, beginning thirty (30) days after the date of election. Terms of each city council office, except the office of mayor, shall be four (4) years. Terms of office for members of the city council, excluding the office of mayor, shall be staggered such that two offices of [the] city council are elected at the general election every two (2) years.
- (e) The city clerk, the marshal, deputy marshals and fire marshal shall be appointed by the city council and hold office at the pleasure of the city council, and provided further that no person holding elective office shall be eligible for municipal appointive office.
- (f) At the general election on November 3, 1992, two seats of the city council, seats "A" and "B," shall be elected for terms of four (4) years and the candidates elected to those seats shall hold office for the duration of that term. The remaining two seats of the city council, seats "C" and "D," shall be elected for an initial term of two (2) years and the candidates elected to those seats shall hold office for the duration of that term. At the general election in November, 1994, Seats "C" and "D" of the city council shall be

elected for terms of four (4) years and the candidates elected to those seats shall hold office for the duration of that term. Thereafter, elections of seats of the city council shall be timed to coincide with general elections in November of even numbered years, and the members of the city council, except the office of mayor, elected at said general elections shall be elected for terms of four (4) years and the mayor elected at said general elections shall be elected for a term of two (2) years. All members of the city council, including the mayor, shall take office thirty (30) days after said general election.

- (g) No person shall be elected a member of the council who is not a qualified elector and resident of the city. A member of the council ceasing to possess any of the qualifications specified in this section or convicted of a felony while in office, shall immediately forfeit his office.
- (h) Vacancies in any office of the city shall be filled by vote of the city council and such vacancies shall be held until the next general election of the city.
- (i) No salary, in excess of one dollar (\$1.00) per year, shall be paid to the city council or mayor.
- (j) The salary of the city clerk, marshal, deputy marshals and fire marshal shall be set by the city council.
- (k) The council shall have the right to remove from office any councilmember or city officer or employee for incompetence, corruption, misconduct, malfeasance or misfeasance in office, or for unreasonable or inexcusable neglect of duty, but only after due notice, and after giving to such person opportunity to be tried and heard in his defense.
- (l) The council shall be the judge of the elections and qualifications of all members of the city government and, in such case, shall have power to subpoena witnesses and compel the production of all pertinent books, records and papers; but the decision of the council, in any case, shall be subject to review by the courts. The council shall determine its own rules and order of business and keep a journal of all proceedings. It shall have the power to compel the attendance of absent members, may punish its members for disorderly behavior, and by vote of not less than four (4) members, may expel a member for disorderly conduct or for violation of its rules; but no member shall be expelled unless notified of the charges against him and be given an opportunity to be heard in his own defense.
- (m) A majority of the members elected to the council shall constitute a quorum to do business, but a lesser number may adjourn from time to time to compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance. The affirmative vote of a majority of the members elected to the council shall be necessary to adopt any ordinance, resolution, order of vote; except that a vote to adjourn or regarding the attendance of absent members, may be adopted by a majority of the members present. No member shall be excused from voting except on matters involving the consideration of his official conduct, or when his financial interests are involved.
- (n) All meetings of the council shall be public and shall be held at such times and such places as may be set forth by ordinance. The mayor, or any three (3) members of the council, may call special meetings of the council [on] one (1) days' notice, and in such cases, notices may be waived by the members.
- (o) The mayor, the council, or any committee thereof, duly authorized by the council so to do, may investigate the financial transactions of any office or department of the city government and the official acts of any city official, and by similar investigation may secure information upon any matter relating to the city's business. In conducting such investigations, the mayor, the council, or any committee thereof, may require the attendance of witnesses and production of books, papers and other evidences, and for

that purpose may issue subpoenas which shall be signed by the presiding officer of the council or the chairman of such committee, as the case may be, which may be served and executed by any policeman or marshal.

(p) [Editorially deleted.]

Editor's note— This subsection (p) has been editorially deleted as superseded by F.S. § 100.361.

(q) No employee or officer of the city shall enter into any commercial transaction with the city.

(r) The city council shall provide by ordinance for the method of making contracts and incurring obligations for the current operation of the city; provided that all contracts for construction or materials, except for personal services, obligating the city in an amount in excess of five thousand dollars (\$5,000.00) shall be let by public bid in a manner to be provided by ordinance. In the event the city manager shall enter into a contract on behalf of the city for construction or materials, except for personal services, in an amount in excess of one thousand dollars (\$1,000.00) and not exceeding five thousand dollars (\$5,000.00), and a documented formal procedure was not utilized by the city manager, then and under those circumstances, the city manager shall report to the city council at its next regularly scheduled meeting the purpose of the contract, the amount of the contract, the reason for not utilizing the documented formal procedure, and the name of the contractor. Any contract entered into by the city manager on behalf of the city in an amount of one thousand dollars (\$1,000.00) or less shall be exempt from any reporting procedure as set forth herein except for invoices which shall be utilized for payment, accounting and finance purposes only.

The city council of the City of Gulf Breeze may enter into contracts for construction or materials without public bid under the following circumstances:

- (1) When the same or similar construction or materials has been submitted to public bid by the State of Florida, any of its agencies, Escambia County or Santa Rosa County, and any of their agencies, or by any municipality in Escambia County or Santa Rosa County, chartered by the State of Florida and located in either Santa Rosa or Escambia County, and if said governmental body has accepted said bid after public hearing; and
- (2) When the city council of Gulf Breeze decides that additional public bids would be of no financial benefit to the City of Gulf Breeze; or
- (3) When any emergency exists, and the additional time incurred by an additional public bid process would be detrimental to the City of Gulf Breeze, Florida.

(Amd. of 11-2-65; Ord. No. 20-73, § 1, 12-3-73; Ord. No. 5-77, § 1, 8-15-77; Ord. No. 8-86, § 1, 2-17-86; Ord. No. 3-92, § I, 1-29-92, election 3-10-92)

Editor's note— Subsections (b), (c), (d) and (e) were amended and subsection (j) was added at a special referendum election held on November 2, 1965. All references to municipal court and municipal court judge have been editorially deleted as municipal courts were abolished.

Section 4. - Introduction and passage of ordinances and resolutions.

[Editorially deleted.]

Editor's note— Editorially deleted this section as F.S. § 166.041 will apply if the city does not adopt more stringent provisions for adoption of ordinances.

Section 5. - Qualifications of voters.

[Editorially deleted.]

Editor's note— This section has been editorially deleted as the qualifications and registration of electors is superseded by F.S. chs. 97 and 98.

Section 6. - Municipal court.

[Editorially deleted.]

Editor's note— This section on the municipal court has been editorially deleted as municipal courts were abolished by art. V of the Florida Constitution.

Section 7. - Tax assessor and tax collector.

- (a) The city council may appoint a tax assessor and a tax collector who may be the same person and whose duties may be performed by the city clerk. It shall be the duty of the tax assessor to assess all taxable property within the town [city], except ad valorem taxes, the assessment of ad valorem taxes being hereby prohibited, and to prepare all special assessments for public improvements and also to assess, in the manner provided by ordinance, license, privilege and excise taxes and other special taxes which the city is authorized to levy and collect.

Section 8. - [Reserved].

Editor's note— Section 8 of the Charter regarding special assessments was repealed by Ordinance Number 09-92, adopted August 17, 1992.

Section 9. - Elections.

- (a) Deleted by Ord. No. 05-16.
- (b) Any qualified elector of the city who is also a bona fide resident of the city may become a candidate by filing with the city clerk a nominating petition signed by five (5) qualified electors, which petition must be submitted within the time period as provided in section 2-1 of the Municipal Code of Ordinances. The Santa Rosa County Supervisor of Elections conducts elections on behalf of the City of Gulf Breeze pursuant to an interlocal agreement.
- (c) Deleted by Ord. No. 11-2019.
- (d) Deleted by Ord. No. 11-2019.
- (e) Deleted by Ord. No. 11-2019.
- (f) The candidate receiving a majority of votes in an election shall be declared elected.
- (g) Deleted by Ord. No. 11-2019.

(h) Except as herein modified or altered, the provisions of the general laws of Florida pertaining to state municipal elections, registrations, manner of voting, qualifications of electors, duties of election officers, canvassing and the general holding and management of elections, shall apply.

(i) All elected officials and appointed officers shall take the following oath of office:

"I, _____, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and government of the United States and of Florida against all enemies, domestic and foreign, and that I will pledge my faith, loyalty, and allegiance to the same, and that I am entitled to hold office under the charter of this city, and that I will faithfully perform all the duties of the office of _____ the City of Gulf Breeze, Florida, on which I am about to enter, so help me God."

(Amd. of 11-2-65; Ord. No. 20-84, § 1, 12-17-84; Ord. No. 03-92, § 1, 1-29-92, election 3-10-92; Ord. No. 03-01, § 1, 3-5-01; Ord. No. 03-16, § 1, 4-4-16; Ord. No. 05-16, § 1, 7-5-16; Ord. No. 11-2019, § 3, 7-18-19, election of 10-8-19.)

Editor's note— Subsections (e) and (f) were added by a special referendum election held on November 2, 1965.

Section 10. - Notice of suit.

[Editorially deleted.]

Editor's note— This section has been editorially deleted as superseded by F.S. § 768.28.

Section 11. - Enumerated powers not exclusive.

- (a) The enumeration of particular powers in this charter shall not be termed or held to be exclusive, but in addition to the powers enumerated herein, implied hereby, or applicable to the exercise thereof, which are now, or may hereafter be, possessed or enjoyed by towns under the constitution and the general laws of this state, and such powers shall be cumulative and alternative powers to those herein granted and all the powers of the city either expressed or implied shall be exercised and embraced in the manner prescribed by this charter, or when not so prescribed, then in such manner as prescribed by ordinance or resolution of the council.
- (b) If any section or part of a section of this charter is invalid or unconstitutional, same shall not be held to invalidate or impair the validity, force or effect of any other section of this charter unless it clearly appears that such other section or part of a section is willingly and necessarily dependent upon the section which is unconstitutional or invalid.

Section 12. - Amendment to charter.

[Editorially deleted.]

Editor's note— This section has been editorially deleted as superseded by F.S. § 166.031.

Section 13. - Effective date.

This act shall not become effective until the question has been voted upon by the freeholders who are qualified electors of the proposed City of Gulf Breeze, Florida, residing within the boundaries described in section 1 of this act, and ratified by a majority of those voting on the question, which shall be by a special election held within the said territory described herein, such election to take place on the second Tuesday of June, 1961. Should a majority of the qualified freeholder electors voting on the question vote "yes," then this act shall become effective thirty (30) days after the second Tuesday in July, 1961. Should the majority of qualified electors voting on the question vote "no," this act shall be void.

Section 14. - Election commissioners.

The county supervisor of registration, Santa Rosa County and the clerk of the circuit court, Santa Rosa County are designated as election commissioners for the referendum vote as set forth in section 13, supra, and further shall serve as election commissioners for the first election of elective officers set forth in section 3, supra.

Section 15. - Absentee voting.

Pursuant to the authority contained in F.S. § 101.70, the following designated Florida Statutes, relating to absentee voting, are hereby incorporated by reference and made a part of the charter: F.S. §§ 101.61, 101.62, 101.63, 101.64, 101.65, 101.66, 101.67, 101.68, 101.69, 101.691, 101.692, 101.693, 101.694, 101.695, 101.696.

Section 16. - Combining with any other municipality.

At no time may this municipality combine or become a part of any other municipality, without a referendum in which two-thirds of the qualified electors shall vote affirmatively.

[Section 17. - Referendum approval required for sale, lease, conveyance or mortgage of public lands.]

Title to city parks, or other public lands, streets, avenues, or thoroughfares shall not be sold, leased or otherwise conveyed nor mortgaged by any city officials or anyone acting on behalf of the City of Gulf Breeze, nor will private structures be built thereon, without having such action approved by a citywide voter referendum. Said sale, lease, conveyance, or mortgage must be approved by a majority of voters, voting in the aforesaid referendum.

(Ref. of 11-2-82)

Editor's note— At the instruction of the city, and pursuant to passage at referendum Nov. 2, 1982, the charter has been modified by the addition of provisions, which at the discretion of the editor have been included herein as Subpart A, § 17.