

Bill of Incorporation
and
City Charter
for the
City of Bonita Springs
(Codified February 2010 Edition)



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Bill of Incorporation

An act relating to Lee County; creating the City of Bonita Springs; providing for municipal boundaries and municipal powers; providing for a City-Manager form of government; providing for annexation and establishing a 5-year moratorium prior to the annexation of an area into the corporate limits of the City of Bonita Springs; providing for the general powers and duties to be exercised by the City; providing for nonpartisan elections of the City Council, their terms and term limits; creating Council Districts; providing for membership qualifications, powers, and duties of the City Council including the Mayor; providing for compensation and expenses of City Council members; providing circumstances resulting in vacancy in the office of City Council; providing grounds for forfeiture and suspension, and for filling vacancies in the City Council; providing for meetings and keeping of records; providing for referendum election; providing for campaign spending limits; providing for appointment of officers including City Manager and City Attorney; providing for powers and duties of City Manager; providing for code of technical regulation; providing for adoption of ordinances and resolutions to include emergency ordinances; providing for first year expenses; providing for adoption of annual budget and appropriations; providing for capital programs; providing for a debt limit on the amount of outstanding long-term liabilities; providing for referendum petitions and for recall; providing for code of ethics; providing for amendments to the City Charter; providing for participation in State shared revenue and local option gas taxes; providing for initial election of City Council and early assumption of duties; providing for a transitional period and for County ordinances and services during the transitional period; providing effective dates; providing for an annual financial audit; providing for severability; providing for a referendum; providing an effective date.

The Charter

Be It Enacted by the Legislature of the State of Florida:

Article I

The charter for the City of Bonita Springs is created to read:

Section 1. Short title.

This act, together with any future amendments thereto, shall be known and may be cited as the City of Bonita Springs Charter, hereinafter referred to as the “charter.”

Section 2. Legislative intent.

The Legislature hereby finds and declares that the City of Bonita Springs in Lee County includes a compact and contiguous community of approximately 33 square miles (21,120 acres) and 38,003 permanent residents susceptible to urban services, and constitutes a community amenable to separate municipal government. *[Revised by Ordinance No. 03-03, adopted 3-5-03]*

Section 3. Incorporation of municipality; corporate limits.

There is hereby created, effective December 31, 1999, in Lee County, a new municipality to be known as the City of Bonita Springs, which shall have a City-Manager form of government. The corporate boundaries of the City of Bonita Springs, hereinafter referred to as the “city,” shall be as described in Section 6.

Section 4. Preamble.

The preamble to the charter shall read:

We, the people of the Bonita Springs Community, by the grace of God and pursuant to the authority granted by the Constitution and the laws of the United States and of the State of Florida, in order to secure the benefits of local self-government, and otherwise to promote the common welfare of all citizens, do hereby ordain and establish this charter for the City of Bonita Springs.

Section 5. Purpose.

The purpose clause of the charter:

We, the people of the City of Bonita Springs, desiring to avail ourselves of the right to establish a home-rule charter, in accordance with the Constitution and the laws of the State of Florida, do ordain and establish this charter and form of government for the City of Bonita Springs.

Section 6. Boundaries.

The territorial boundaries of the City of Bonita Springs, upon the date of incorporation, shall include the following areas situated in the County of Lee, State of Florida:

Beginning at a point at the northeast corner of Section 18, Township 47 South, Range 26 East, proceed southward along the easterly section line of Sections 18 and 19 thence along the westerly right-of-way line of Bonita Grande Drive to the southern right-of-way line of Bonita Beach Road on the line separating Sections 5 and 6 in Township 48 South, Range 26 East. From thence proceed eastward for two miles to the section line separating Sections 4 and 3 of Range 26 East, Township 48 South. From there proceed south along the section line for one mile to the Lee/Collier County line. The southern boundary shall then proceed west along the Lee/Collier boundary until it reaches Vanderbilt Drive, at which point it will follow the Lee/Collier boundary north for one mile along Vanderbilt Drive. The boundary shall then proceed west along the section line separating Section 5 of Township 48 South, Range 25, East, and Section 32 of Township 47 South, Range 25 East, being the Lee/Collier boundary, until it reaches a point 500 feet west of the high tide mark of the Gulf of Mexico. The western boundary of the City of Bonita Springs shall be a line drawn 500 feet westward of the mean high tide line and extending from the section line separating Section 6 of Township 48 South, Range 25 East, in Collier County from Section 31, Township 47 South, Range 25 East, in Lee County northwest to the section line separating Sections 10 and 3 in Township 47 South, Range 24 East, in Lee County. From there the boundary shall extend east, northeast, north, east, and south following a line drawn 500 feet from the mean high tide of Lovers Key and Black Island, returning to the section line separating Sections 2 and 11, thence proceeding eastward to the westerly section line of Section 7, Township 47 South, Range 25 East. From there proceed southward along the westerly boundary of Section 7, to the southwest corner of Section 7, Township 47 South, Range 25 East, Lee County, Florida. From there proceed east along the section line for approximately seven miles to the point of beginning.

Following Incorporation, the City of Bonita Springs has redefined its boundaries* by annexing the following properties within its corporate boundaries:

- Ord. No. 02-12: Corkscrew Growers, Section 3, Township 48, Range 26, (+/- 649 Acres)

- Ord. No. 03-09: Bonita Farms, Sections 17 & 20, Township 47 South, Range 26 East, (+/-1,268 Acres)
- Ord. No. 03-11: Gatterer, described as the North Half (N ½) of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section 29, Township 47 South, Range 26 East, (+ 20 acres)
- Ord. No. 03-12: Five of Seven, described as the West half of the Northwest quarter of the Northwest quarter of the Northeast quarter, being in Section 29, Township 47 South, Range 26 East and the North half of the Northeast quarter of the Northwest quarter of Section 29, Township 47 South, Range 26 East, and the South half of the Northeast quarter of the Northwest of Section 29, Township 47 South, Range 26 East (+ 45 acres)
- Ord. No. 04-03: Bonita Beach Road RPD, Sections 1 & 2, Township 48 South, Range 26 East, (+1,299 acres)
- Ord. No. 04-05: Cleveland Clinic, described as the West 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Northwest 1/4, Section 29, Township 47 South, Range 26 East, and the North 264 feet of the West 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Northwest 1/4, Section 29, Township 47 South, Range 26 East, and the South 1/2 of the Northwest 1/4 of the Northwest 1/4, Section 29, Township 47 South, Range 26 East, (+ 25 acres)
- Ord. No. 05-10: Bonita Springs Fire Control & Rescue District, described as Commencing at the NW Corner of the SW Quarter of Section 32, Township 47 South, Range 26 East, Lee County, Florida; Thence Run S 01'01 "04" W, along the West Line of the SW Quarter of Section 32, for a distance of 631.03 Feet; Thence Run S 89'10'32" E for a distance of 50.00 feet to the point of beginning of the parcel of land described herein; thence continue S 89'10'32" E for a distance of 277.10' feet; thence run N 00'58'25" E for a distance of 626.31 feet; thence run S 89'13'34" E for a distance of 326.62 feet; thence run S 00'55'45" W for a distance of 1258.20 feet; thence run N 89'07'30" W for a distance of 605.19 feet; thence run N 01'01'04" E for a distance of 631.07 feet to the POB, (+ 13.465 acres)
- Ord. No. 06-09: Lin & Kuhlman, described as Southeast corner of Section 33, Township 47 South, Range 26 East, Lee County, Florida; thence run Westerly along the South line of said Section and the centerline of Bonita Beach Road for 986.13 +/- feet to the Southeast corner of the West ½ of the Southwest ¼ of the Southeast ¼ of the Southeast ¼ of said Section and the Point of beginning; thence Northerly along the East line of said fraction 640.14 +/- feet to the Northeast corner of said fraction; thence Westerly along the North line of said fraction 328.40 +/- feet to the Northwest corner of the West ½ of the Southwest ¼ of the Southeast ¼ of the Southeast ¼ of said Section 33; thence Southerly along the West line of said fraction for 639.84 +/- feet to the South line of Section 33, Township 47 South, Range 26 east also being the centerline of Bonita Beach Road; thence Easterly along the South line of Section 33, marking the centerline of Bonita Beach Road for 328.71 +/- feet to the Point of Beginning(+ 5.00 acres)
- Ord. No. 07-01: Haines, described as the West ½ of the Southwest ¼ of the Southwest ¼ of the Southeast ¼ of Section 33, Township 47 South, Range 26 East, Lee County, Florida (+ 5.00 acres)
- Ord. No. 07-16, East Bonita Properties Owners, as described fully in the Ordinance, in Section 29, Township 47 South, Range 26 East, Lee County, Florida (+ 331.80 acres)

The territorial boundaries of the City of Bonita Springs includes coastal areas and/or islands which are located within 2 miles of the territorial boundaries of Fort Myers Beach, because of such extraordinary

natural boundaries, it requires the presence of a separate municipal government for these coastal and/or island areas.

* In accordance with Florida Statutes §166.031(3), the City of Bonita Springs may, by ordinance and without referendum redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State. Until such time that the boundaries are redefined, the annexation actions are listed by Ordinance, name, legal description and acreage size.

Section 7. Extension of the corporate limits; annexation.

For a period of 5 years from the date the City is created, no area currently within the Estero Fire and Rescue District shall be annexed into the corporate limits of Bonita Springs. With this exception, the corporate limits of the City may be revised and expanded as provided by general law.

Section 8. Form of government.

The form of government established under this charter shall be a City-Manager form as herein provided, with a governing body known as the City Council consisting of a Mayor and six City Council members who will be elected in the manner hereinafter provided. The City Council will constitute the governing body of the City, with the duties and responsibilities hereinafter provided. Unless explicitly stated otherwise in the Charter, the terms City Council or Council as used throughout the Charter shall mean the Mayor and six City Council members collectively as one governing body. City Council may, after a public hearing, enact an ordinance to amend any provision of this Charter to correct usage as to this intent. The City Council shall appoint a City Manager to be the Chief Administrative Officer of the City and who shall serve at the pleasure of the City Council.

[Section 8 amended by Charter Amendment 1, Election 1-26-10]

Section 9. Powers of the City.

The City shall be a body corporate and politic and shall have all the powers of a municipality under the Florida Constitution and laws of the State of Florida, as fully and completely as though such powers were specifically enumerated in the charter. In accordance with the Florida Constitution and statutes of the State of Florida, the City of Bonita Springs shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any of its powers for municipal purposes, except when expressly prohibited by law.

Section 10. Construction.

The powers of the City under this charter 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 granted by this charter.

Section 11. Intergovernmental relations.

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states, counties, municipalities, special districts, or any agencies thereof, or the United States or any agencies thereof.

Section 12. Powers vested in City Council.

All powers of the City shall be vested in the City Council, except as otherwise provided by law or this charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Section 13. Composition of City Council, eligibility, elections, terms, term limits.

- (a) There shall be a City Council composed of the Mayor and six Council members. One Council member shall be nominated and elected by the voters in each of the six Council districts. Each Council member, excluding the Mayor, must reside in the district they represent. The Mayor shall be elected at-large within the City in the manner provided for in this charter and must reside within the City.
- (b) Only registered voters of the City shall be eligible to hold the office of Council member or Mayor. Candidates qualifying for any seat on the Council shall have been residents and registered voters of the particular district for a minimum of six months immediately preceding the commencement of the term of office and must be a resident of the District they represent during their incumbency. Candidates qualifying for Mayor shall have been residents and registered voters of the city for a minimum of six months immediately preceding the commencement of the term of office and must be a resident of the City during their incumbency.

[Revised by Ordinance No. 07-11, adopted 8-1-07]

[Section 13(b) amended by Charter Amendment 1, Election 1-29-08]

- (c) The regular election of Council members and the Mayor will be set by ordinance. All Council members and the Mayor shall serve for terms of four (4) years, as adjusted by election dates. The terms of Council members and the Mayor shall begin on the date of the certification of their election. Each Council member and the Mayor will remain in office until a successor is elected certified as being elected to such office. No one shall serve, or but for resignation would have served, more than eight (8) consecutive years, or two (2) complete terms, in the singular position of Mayor or Council member or more than sixteen (16) consecutive years, or four (4) complete terms, in any combination of the positions of Mayor and Council member. The foregoing limitations shall not apply to the succession or election to fill a vacancy in a term of office for a period of less than two (2) years. After two (2) years out of office an individual may qualify for any seat on the City Council as a Council member or as Mayor, however, resignation from office that results in such individual being out of office for two (2) years shall constitute a complete term, regardless of the time in office.

[Revised by Ordinance No. 01-21, adopted 12-19-01]

[Revised by Ordinance No. 03-03, adopted 3-5-03]

[Revised by Ordinance No. 07-12, adopted 8-1-07]

[Section 13(c) amended by Charter Amendment 2, Election 1-26-10]

- (d) Any elector of the City who wishes to become a candidate for a City elective office shall qualify with the City Clerk. Candidates must submit their names and proof of qualification, as described in this charter and in the applicable provisions of Chapter 99, Florida Statutes, to the office of the Lee County Supervisor of Elections between the first and fourteenth business day of the October prior to the election. Proof of qualification includes proof of current address and compliance with the residency requirement. Each candidate shall pay a qualifying fee as set forth in the Florida elections laws for municipal candidates.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

[Revised by Ordinance No. 07-11, adopted 8-1-07]

[Revised by Ordinance No. 07-12, adopted 8-1-07]

[Section 13(d) amended by Charter Amendment 1, Election 1-29-08]

[Section 13(d) amended by Charter Amendment 2, Election 1-26-10]

Section 14. Nonpartisan election.

All elections to the office of Mayor or City Council shall be conducted on a nonpartisan basis without designation of any political affiliation for any candidate on any ballot.

Section 15. Referendum spending limits; campaign spending limits.

- (a) There shall be a maximum cap of not more than \$1. per registered voter in the City placed on campaign spending for any referendum vote for or against such referendum question. Effective February 1, 2010, and annually thereafter, the cap shall be increased based on the Consumer Price Index for All Urban Consumers (CPI-U) (or successor reports) for the preceding calendar year or three (3%) percent, whichever is less.
- (b) No candidate for a Council member seat may spend more than \$2. per registered voter in his or her District (as of the preceding municipal general election) on an election. No candidate for Mayor may spend more than \$2. per registered voter (as of the preceding municipal general election) in the City on an election. Effective February 1, 2010, and annually thereafter, the cap shall be increased based on the Consumer Price Index for All Urban Consumers (CPI-U) (or successor reports) for the preceding calendar year or three (3%) percent, whichever is less. The candidate spending limit applies to all campaign spending, whether a direct expenditure from a candidate or by an indirect source such as a group, club, association or other organization, including a political action committee.

[Section 15(b) amended by Charter Amendment 1, Election 3-9-04]

[Section 15 amended by Charter Amendment 3, Election 1-26-10]

Section 16. Adoption of election procedure.

The Council, by ordinance, may adopt such election procedures as are necessary and as provided by Florida law.

Section 17. Multiple candidates.

The candidate who receives the highest number of votes cast for the seat or for the office for which he or she is running shall be declared to be elected. In the event of a tie between the candidates for any seat in the general election, following a mandatory recount, another election shall be held on the earliest date that the run-off election can be conducted. The candidates receiving the equal votes shall be the only candidates on the ballot for the run-off election.

[Revised by Ordinance No. 03-22, adopted 11-19-03]

[Section 17 amended by Charter Amendment 4, Election 1-26-10]

Section 18. Mayor.

A Mayor shall be elected, at-large, and shall serve for a term of 4 years. The Mayor shall be a voting member of the City Council and shall preside at meetings of the City Council, represent the City in intergovernmental relationships, appoint with the advice and consent of the other members of the City Council the members of citizen advisory boards and commissions, present an annual "State of the City Message," and perform other duties as specified by the City Council and this Charter. The Mayor shall be

recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of martial law, but shall have no administrative duties. In addition to any other duties, the Mayor shall have a voice and a vote in all City Council proceedings, but shall have no veto power. The Council shall elect, from among its members, a Deputy Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term if less than 180 days before the next general election, otherwise, Section 21 (c) applies.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

[Section 18 amended by Charter Amendment 5, Election 1-26-10]

Section 19. Compensation; expenses.

The Mayor shall receive \$20,000.00 annually, payable monthly, and each City Council member shall receive \$15,000.00 annually, payable monthly, as compensation for their services. This amount of compensation shall be revised annually based on a cost of living adjustment (COLA) in the same time and manner as for city employees. The Council may provide for reimbursement of actual expenses incurred by its members, including the Mayor, while performing their official duties.

[Section 19 amended by Charter Amendment 2, Election 3-9-04]

Section 20. Prohibitions.

- (a) Except where authorized by law, no Council member including the Mayor shall hold any other elected public office during the term for which the member was elected. Neither the Mayor nor any Council member shall hold any other City office or City employment during the terms for which the member was elected to the Council. Neither the Mayor nor any Council member shall hold any office or employment with the City prior to 2 years after the expiration of the term for which the member was elected. Nothing in this section shall be construed to prohibit the Council from appointing any current or former Mayor or Council member to represent the City on the governing board of any regional or other intergovernmental agency.
- (b) Neither the City Council nor any of its members shall in any manner control or demand the appointment or removal of any City Administrative Officer or employee whom the City Manager, or any subordinate of the City Manager, is empowered to appoint, but the Council may express its views and freely discuss with the City Manager anything pertaining to appointment and/or removal of such officers and employees.
- (c) Except for the purpose of inquiries and investigations as provided for in this charter, the Council or its members shall deal with the City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

[Section 21(c) amended by Charter Amendment 5, Election 1-26-10]

Section 21. Vacancies; forfeitures of office; filling vacancies.

- (a) The office of a Council member, including the Mayor, shall become vacant upon the member's death, resignation, inability to fulfill the duties of the office, movement of residence outside the District, or removal from office as authorized by law or this charter.
- (b) A Council member shall forfeit the office if the Council member: lacks at any time during the term of office any qualification for the office prescribed by this charter or as provided by law; violates any express prohibition of this charter; is convicted of a crime involving a felony or moral turpitude; or

fails to attend three consecutive regular meetings of the Council without being excused by the Council.

- (c) A vacancy on the City Council, except for the position of Mayor, shall be filled by Special Election for the remainder of the unexpired term by a representative from the incumbent's district to serve until the next general election, unless the vacancy occurs not more than 180 days before the general election. In the event the Mayor becomes unable to fulfill the duties of office, ceases to be qualified, or is removed from office as provided by law or this charter, the Deputy Mayor of the Council shall assume the full powers and duties of the Mayor unless the vacancy occurs more than 180 days before the general election, in which case the position will then be filled by Special Election for the remainder of the unexpired term. The Deputy Mayor shall temporarily relinquish his or her office as Council member and shall assume the office of Mayor for the period of time until the new Mayor can be seated.

[Section 21 amended by Charter Amendment 5, Election 3-12-02]

[Section 21 amended by Charter Amendment 5, Election 1-26-10]

Section 22. Judge of qualifications.

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. The Council shall have the power to set additional written standards of conduct for its members beyond those specified in this charter and may provide for such penalties as it deems appropriate, including forfeiture of office. In order to exercise these powers, the Council shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least 7 days in advance of the hearing. Decisions made by the Council under this section shall be subject to judicial review.

Section 23. Investigations.

The City Council may make investigations into the affairs of the City and the conduct of any City department, office, or agency and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Failure or refusal to obey a lawful order issued in the exercise of these powers by the Council shall be a misdemeanor punishable by a fine of not more than \$500., or by imprisonment for not more than 60 days; or both such fine and imprisonment.

Section 24. Meetings.

The Council shall meet regularly at least once every month at such time and place as the Council may prescribe. Special meetings may be held on the call of the Mayor or of four or more members and, whenever practical, upon no less than 12 hour's notice to each member and the public. Action taken at a special meeting shall be limited to the purpose for which the special meeting is called. Except as authorized by law, all meetings shall be open to the public.

Section 25. Rules and journal.

The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. Except as authorized by state law, the journal and minutes shall be public record.

Section 26. Voting by City Council.

Voting, except on procedural motions, shall be by roll call with the ayes and nays recorded in the journal. Four council members shall constitute a quorum, but a small number may adjourn from time-to-time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided for in this charter, shall be valid or binding unless adopted by the affirmative vote of four or more Council members.

Section 27. Actions requiring an ordinance.

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- (a) Establish, alter, or abolish any City department, office, or agency;
- (b) Grant, renew, or extend a franchise;
- (c) Regulate the rate charged for its services by a public or private utility when not regulated or preempted by state law;
- (d) Authorize the borrowing of money;
- (e) Convey or lease, or authorize the conveyance or lease of, any City real property when the value of the lease or conveyance exceeds \$15,000; and
- (f) Regulate land use and development.

Acts other than those referred to in this section may be done either by ordinance or by resolution.

[Former 27(b) Fines & Forfeitures & (i) Ord., deleted by Charter Amendment 7, Election 3-12-02]

[Former 27(c) Levy Taxes, deleted by Charter Amendment 8, Election 3-12-02]

[Section 27(c) amended by Charter Amendment 9, Election 3-12-02]

[Section 27(a) amended by Charter Amendment 3, Election 3-09-04]

[Section 27(e) amended by Charter Amendment 4, Election 3-09-04]

Section 28. Ordinances and resolutions; definitions.

As used in this charter, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

- (a) “Ordinance” means an official legislative action of the Council which action is a regulation of general and permanent nature and enforceable as a local law.
- (b) “Resolution” means an expression of the City Council concerning matters of administration and expressions of a temporary character or a provision for the disposition of a particular item of the administrative business of the City Council.

Section 29. Ordinances in general.

- (a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject together with matters properly connected therewith which will be clearly expressed in its title. The enacting clause shall be “The City of Bonita Springs hereby ordains.....”. Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, section or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics. All ordinances shall be adopted as provided for in Chapter 166, Florida Statutes, as such may be amended from time-to-time.
- (b) An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk/Treasurer shall distribute a copy to each Council member and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk/Treasurer and such other public places as the Council may designate, and shall publish the ordinance together with a notice setting forth the time and place for a public hearing thereon and for its consideration by the Council. The proposed ordinance shall be read in full or by title at no less than two public meetings of the City Council, the first of which will be permission to advertise the public hearing. The public hearing shall follow the publication by at least 10 days, may be held separately or in connection with a regular or special Council meeting that may be adjourned from time-to-time, and all persons interested shall have an opportunity to be heard. After the hearing the Council may adopt the ordinance with or without amendments or reject it. If it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures required in the case of a newly introduced ordinance. As soon as practicable after adoption, the City Clerk/Treasurer shall have a summary of the ordinance and a notice of its adoption published. A copy of the complete ordinance will be available at a reasonable price.
- (c) Except as otherwise provided in this charter every adopted ordinance shall become effective 30 days after adoption or at any later date specified in the ordinance.
- (d) As used in this section, “publish” means to print in one or more newspapers of general circulation in the City:
 - (1) The ordinance or a brief summary thereof; and
 - (2) The place where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

Section 30. Emergency ordinances.

To meet a public emergency affecting life, health, property, or the public peace, the City Council may, except where prohibited by general law, adopt one or more emergency ordinances, but such ordinances may not: levy taxes; grant, renew, or extend a franchise; regulate the rate charged by any utility for its services; or authorize the borrowing of money except as provided in this charter. No emergency ordinance shall be adopted that establishes or amends the zoning map designation of a parcel or parcels of land or that changes the list of permitted, conditional, or prohibited uses within a zoning category. An emergency ordinance shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendments or rejected at the meeting

at which it is introduced, but the affirmative vote of two-thirds of the members voting shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as may be specified. Every emergency ordinance except one made pursuant to Section 46(B) of this charter shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of ordinances.

Section 31. Codes of technical regulations.

The City Council may adopt any standard code of technical regulation by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

- (a) The requirements in this charter for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and
- (b) A copy of each adopted code of technical regulations as well as of the adopting ordinance shall be authenticated and recorded by the City Clerk/Treasurer.

Copies of any adopted code of technical regulations shall be made available by the City Clerk/Treasurer for distribution or purchase at a reasonable price.

Section 32. Authentication and recording: codification; printing.

- (c) An ordinance shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the Mayor and the City Clerk/Treasurer. Copies of the ordinance shall be available to the public at a reasonable price.
- (d) Within 3 years after adoption of this charter and at least every 10 years thereafter, the City Council shall provide for the preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this charter and any amendments thereto, pertinent provisions of the Florida Constitution and other laws of the State of Florida, and such codes of technical regulations and other rules and regulations as the Council may specify. This compilation shall be known and cited officially as the Bonita Springs City Code. Copies of the code shall be furnished to City officers, placed in libraries and public offices for public reference and made available for purchase by the public at a reasonable price.
- (e) Printing of ordinances and resolutions. The City Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions, and charter amendments shall be distributed or available to the public at a reasonable price. Following publication of the first Bonita Springs City Code and at all times thereafter, the ordinances, resolutions, and charter amendments shall be printed in substantially the same style as the code then currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in, or additions to, the codes of technical regulations and other rules and regulations to be included in the code.

Section 33. Appointment; qualifications; compensation of the City Manager.

The City Council by a majority vote of its total membership shall appoint a City Manager for an indefinite term and fix the Manager's compensation, and approve the reimbursement of City-related expenses. The City Manager shall be appointed on the strength of executive, administrative, and municipal experience and qualifications. At the time of appointment, the Manager does not need to be a resident of the City or State, but may not reside outside the City while in office without approval of the Council. The Council shall put its goals in writing to the City Manager annually, and the Council shall have an annual written evaluation of the performance of the City Manager.

Section 34. Removal of City Manager.

The City Manager may be suspended by a resolution approved by majority vote of the City Council, which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall immediately be served upon the City Manager. The City Manager shall have 15 days to reply thereto in writing, and upon request, shall be afforded a public hearing, which shall occur not earlier than 15 days or later than 30 days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the City Council, by a majority vote of its total membership, may adopt a final resolution of removal. The City Manager will continue to receive full salary until the effective date of a final resolution of removal.

Section 35. Acting City Manager.

By letter filed with the City Clerk/Treasurer, the City Manager shall designate a City Officer or employee to exercise the powers and perform the duties of City Manager during the Manager's temporary absence or disability. The City Council may revoke such designation at any time and appoint another officer of the City to serve until the City Manager returns.

Section 36. Powers and duties of the City Manager.

The City Manager shall be the Chief Administrative Officer of the City, responsible to the Council for the administration of all City affairs placed in the Manager's charge by or under this charter or as directed by the Council.

The City Manager shall:

- (a) Appoint and, when necessary for the good of the City, suspend or remove any City employees and appointive administrative officers, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The City Manager may authorize any administrative officer, subject to the Manager's direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office, or agency;
- (b) Direct and supervise the administration of all departments, offices, and agencies of the City, except as otherwise provided by this charter or by law;
- (c) Attend the City Council meetings; the City Manager shall have the right to take part in discussion but shall not vote;

- (d) Ensure that all state and federal laws, provisions of the charter, and acts of the City Council are faithfully executed;
- (e) Prepare and submit the annual budget and capital expenditures program to the City Council;
- (f) Submit to the City Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year;
- (g) Make such other reports as the City Council may require concerning the operations of the City departments, offices, and agencies subject to the City Manager's direction and supervision;
- (h) Keep the City Council fully advised as to the financial condition and future needs of the City;
- (i) Make recommendations to the City Council concerning the affairs of the City;
- (j) Provide staff support for the Mayor and Council members;
- (k) Perform such other duties as are specified in this charter or as may be required in writing by the City Council;
- (l) Contract for services where authorized by law and approved by the Council; and
- (m) Have written goals for all City employees and written performance reviews of all City personnel.

SECTION 37 CITY CLERK/ FINANCE DIRECTOR

- (a) City Clerk. There shall be a City Clerk who shall be appointed by the City Manager with the consent of the City Council. The City Clerk shall serve at the pleasure of the City Manager and shall:
 - 1. Give notice of City Council meetings to its members and the public;
 - 2. Keep the journal and minutes of the proceedings of the City Council;
 - 3. Authenticate by signature and record, in books kept for that purpose, all ordinances and resolutions passed by the City Council;
 - 4. Be custodian of the City's seal;
 - 5. Have the power to administer oaths; and
 - 6. Perform such other duties as may be assigned by the City Manager.
- (b) City Finance Director. There shall be a City Finance Director who shall be appointed by the City Manager with the consent of the Council. The Finance Director shall serve at the pleasure of the City Manager and shall:
 - 1. Receive, safely keep, and disburse, under the direction of the Council, all funds belonging to or under the control of the City, and keep an accurate account of all receipts and disbursements in such manner as the City Manager shall direct. All checks drawn upon depository of City funds shall be countersigned by those persons designated by resolution of the City Council;
 - 2. To invest all funds of the City according to law, and the instructions of the City Council;
 - 3. To pay out on behalf of the City under the supervision of the City Manager by checks or other orders of payment, all payments due from the City, provided that the City Council shall provide by resolution, the manner in which all checks or other orders of payment are

to be signed, which shall require at least two (2) countersignatures, all of which may be by facsimile or other electronic means;

4. To prescribe all records and forms pertaining to the disbursement and receipt of funds;
5. To submit monthly financial statements to the City Council showing all receipts and disbursements, and the financial condition of the City;
6. To furnish to the City Manager such financial services as may be required from time to time;
7. Have access to inspect, copy, or take possession of all records relating to the receipt or expenditure of funds of the City;
8. Require regular reports from each department, office or employee receiving or disbursing funds of the City, showing the amounts, source and purpose thereof;
9. Keep an accurate account of all appropriations made by the City Council;
10. To work with the independent auditor employed annually by City Council to make a complete audit of the City; and
11. Perform such other duties as may be assigned by the City Manager.

- (c) City Council may, after a public hearing, adopt an ordinance to amend any Charter provision to separate the duties of the City Clerk or Finance Director.

[Section 37 amended by Charter Amendment 9, Election 1-26-10]

Section 38. General provisions.

- (a) The City Council may establish City departments, offices, or agencies in addition to those created by this charter and may prescribe the functions of all departments, offices, and agencies.
- (b) All departments, offices, and agencies under the direction and supervision of the City Manager may be administered by an officer appointed by, and subject to, the direction and supervision of the City Manager. With the consent of Council, the City Manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

Section 39. Personnel.

- (a) All appointments, salary increases, and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by a valid and reliable review of such officer or employee's performance against goals, or other evidence of competence.
- (b) Consistent with all applicable federal and state laws, the City Council shall provide by ordinance for the establishment, regulation, and maintenance of a merit system governing personnel policies necessary for effective administration of the employees of the City's departments, offices, and agencies, including, but not limited to, classification and pay plans, examinations, force reduction, removals, working conditions, provisional and exempt appointments, in-service training, grievances, and relationships with employee organizations.

Section 40. Planning.

Consistent with all applicable federal and state laws with respect to land use, development and environmental protection, the City Council shall:

- (a) Designate an agency or agencies to carry out the planning function with such decision making responsibilities as may be specified by ordinance or by Florida Statutes;
- (b) Adopt a comprehensive plan and ensure that zoning and other land use control ordinances are consistent with the plan, all in accordance with Florida Statutes;
- (c) Adopt zoning and/or development regulations, to be specified by ordinance, to implement the plan.

Section 41. City Attorney.

There shall be a City Attorney, who shall be a member of The Florida Bar in good standing, appointed by the Council, who may represent the City in all legal proceedings and shall perform all other duties as assigned by the Council. The Council may remove the City Attorney for any reasons by a majority vote of its total membership. The City Attorney shall serve as chief legal advisor to the Council and all City departments, offices, and agencies. The City Attorney shall attend Council meetings unless excused by the Council and shall perform such professional duties as may be required by law or by the Council in furtherance of the law.

Section 42. Fiscal year.

The fiscal year of the City shall begin on the first day of October and end on the last day of September of each year.

Section 43. Submission of budget and budget message.

On or before the 15 day of August of each year, the City Manager shall submit to the City Council a budget for the ensuing fiscal year and an accompanying message.

- (a) The City Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City and summarize the City's debt position.
- (b) The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the City Manager deems desirable or the City Council may require. It will include estimated income and expenditures for the ensuing fiscal year compared with actual income and expenditure figures for the past fiscal year.

Section 44. City Council action on budget.

The Council shall publish in one or more newspapers of general circulation in the City a general summary of the budget and notice of where copies of the budget are available for inspection by the public and the time and place for public hearings on the budget. There will be a minimum of two public hearings prior to the City Council adopting the budget by resolution. A resolution adopting the annual budget shall constitute appropriation of the amounts specified therein as expenditures from funds indicated.

Section 45. Appropriation; revenue; surety bond ordinances.

To implement the adopted budget, the City Council shall adopt, prior to the beginning of the ensuing fiscal year;

- (a) Make appropriations by department or major organizational unit and authorizing a single appropriation for each department or unit;
- (b) Authorize the property tax levy and setting the tax rate; and
- (c) Authorize new revenues or amend the rates of existing taxes or other revenue sources.

The City Council shall determine which City officers and employees shall be required to furnish a surety bond to the City, the amount of such bonds, and the amount of penalty thereof.

[Amended by Charter Amendment 13, Election 3-12-02]

Section 46. Amendments after adoption.

- (a) If during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the City Council may make supplemental appropriations for the year in an amount not to exceed such excess, or carry over excess revenues into the next fiscal year.
- (b) To meet a public emergency the City Council may make emergency appropriations in accordance with state and federal laws. If sufficient funds are not available to meet such emergencies the City Council may authorize emergency notes to be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.
- (c) If, at any time during the fiscal year, it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated, the Manager shall report same to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps that should be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and, for that purpose, the Council may by resolution reduce one or more appropriations accordingly.
- (d) Where authorized by general law, the City Council, at any time during the fiscal year, may by resolution provide for the transfer of all or part of any unrestricted appropriations balance from one department to another department within the City.
- (e) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated, or by more than the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.
- (f) The City charter hereby provides for a legal debt limit which caps the amount of outstanding long-term liabilities to 10 percent of the assessed property value within the City.

[Amended by Charter Amendment 13, Election 3-12-02]

Section 47. Lapse of appropriations.

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if 3 years pass without any disbursement from or encumbrance of the appropriation.

Section 48. Administration of the budget.

The City Council shall provide, by ordinance, the procedures for administering the budget.

Section 49. Overspending of appropriations prohibited.

No payment against any allotment or appropriation shall be made unless the City Manager certifies that such funds are available to cover the obligation when it becomes due and payable. Except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, but only if such action is made or approved by ordinance.

Section 50. Capital program.

In conjunction with the submission of the budget, the City Manager shall prepare and submit to the City Council a 5-year capital program to include cost estimates, time schedules, methods of financing, and estimated annual costs of operation and maintenance for such capital improvements. This shall be revised and extended each year depending on which capital improvements are still pending or in process of construction or acquisition.

Section 51. City Council action on capital program.

The City Council shall publish in one or more newspapers of general circulation within the City a summary of the capital program and a notice of not less than two public hearings on the capital program. The City Council, by resolution, shall adopt the capital program with or without amendments after the public hearings and on or before the 15th day of August of the then current fiscal year.

Section 52. Public records.

Copies of the budget, capital program, and appropriation and revenue ordinances shall be public records and shall be made available to the public at suitable and published places in the City, and shall be available for purchase at a reasonable price.

Section 53. Council Districts; redistricting.

- (a) There will be six City Council Districts. The districts shall be as roughly equal in permanent population as is practical (along precinct lines) according to the population estimates. Where practical no City block shall be divided in the formation of districts.
- (b) The Districts' geographical boundaries are:

District 1:

Beginning at a point (“Point of Beginning of District 1”) that is the intersection of the section lines of Sections 1, 2, 11 and 12 of Township 47 South, Range 24 East in Lee County, Florida and is also a point on the territorial boundary of the City of Bonita Springs, Florida (“City”), then proceeding northwesterly, then westerly, then southwesterly and then southeasterly along said boundary of the City, said boundary being a meandering line 500 feet westward of the mean high tide line along the shoreline of the Gulf of Mexico, to said boundary’s intersection with the centerline or extended centerline of the mouth of Big Hickory Pass in the Gulf of Mexico, then proceeding southeasterly and then easterly along the meandering centerline of Big Hickory Pass and then Broadway Channel easterly to its intersection with Estero Bay, then proceeding on a straight line northeasterly across Estero Bay to its intersection with the centerline or extended centerline of the mouth of Spring Creek at Estero Bay, then proceeding easterly along the meandering centerline of Spring Creek, including all islands in Spring Creek, to its intersection with the centerline of U.S. 41 (Tamiami Trail), then proceeding northerly along the centerline of said U.S. 41 to its intersection with the centerline of Strike Lane, then proceeding westerly along the centerline of said Strike Lane to its intersection with the centerline of Burnt Pine Drive, then proceeding northerly along the centerline of said Burnt Pine Drive to its intersection with the centerline of Pelican Landing Parkway, then proceeding easterly along the centerline of said Pelican Landing Parkway to its intersection with the centerline of Old 41 Road, also known as Old U.S. Highway 41, (“Old 41 Road”), then proceeding southeasterly along the centerline of said Old 41 Road to its intersection with the centerline of Strike Lane, then proceeding easterly along the centerline or extended centerline of said Strike Lane to its intersection with western boundary of the right-of-way of Interstate 75, then proceeding southerly along the said western boundary of said Interstate 75 right-of-way to its theoretical intersection with the centerline and extended centerline of Carnoustie Court, also known as Carnoustie Road, then proceeding westerly, then southerly, and then due west along the centerline of said Carnoustie Court to its intersection with the centerline of Paradise Road, then proceeding southerly along the centerline of Paradise Road to its intersection with the centerline of the northernmost portion of Carney Circle, then proceeding southerly along the centerline of said Carney Circle to a point where it rejoins and intersects with the centerline of said Paradise Road, then proceeding southerly along the centerline of said Paradise Road to its intersection with the centerline of the northernmost portion of Fenner Circle, then proceeding southerly along the centerline of said Fenner Circle to its intersection with the centerline of Paradise Road, then proceeding southerly along the centerline of said Paradise Road to its intersection with the centerline of Shangri-La Road, then proceeding easterly along the centerline of said Shangri-La Road to its intersection with the centerline of Tropic Acres Drive, then proceeding southeasterly in a straight line to a point being the western termination of the centerline of Sand Road, then proceeding easterly along the centerline of said Sand Road to its intersection with the eastern section line of Section 24, Township 47 South, Range 25 East, then proceeding northerly along the east section line of said Section 24 to its intersection with the centerline of Gardenia Drive, then proceeding easterly along the centerline of said Gardenia Drive to its intersection with the centerline of Trost Boulevard, then proceeding southerly along the centerline of said Trost Boulevard, its continuation being known as Morton Avenue, (sometimes hereinafter referred to as “Morton Avenue/Trost Boulevard”), to its intersection with the centerline of East Terry Street, then proceeding easterly along the centerline of said East Terry Street to its intersection with the western boundary of the right-of-way of Bonita Grande Drive, also being a point on the eastern boundary of the City, then proceeding northerly along the western boundary of said Bonita Grande Drive right-of-way to its intersection with the northeast corner of Section 18, Township 47 South, Range 26 East, also being the northeast corner of the City’s boundaries, then proceeding westerly along the northern boundary of the City to the Point of Beginning of District 1.

District 2:

Beginning at a point (“Point of Beginning of District 2”) which is the intersection of the western boundary of the right-of-way of Bonita Grande Drive and the centerline of East Terry Street, also being a point on the eastern boundary of the City, then proceeding westerly along the centerline of said East Terry Street to its intersection with the centerline of Morton Avenue/Trost Boulevard, then proceeding northerly along said centerline of said Morton Avenue/Trost Boulevard to its intersection with the centerline of Gardenia Drive, then proceeding westerly along the centerline of said Gardenia Drive to its intersection with the eastern section line of Section 24 of Township 47 South, Range 25 East, then proceeding southerly along said eastern section line of said Section 24 to its intersection with the centerline of Sand Road, also being the southern section line of said Section 24, then proceeding westerly along the centerline of said Sand Road to the westernmost point on said centerline of Sand Road, then proceeding northwesterly in a straight line to the intersection of the centerlines of Tropic Acres Drive and Shangri-La Road, then proceeding westerly along the centerline of said Shangri-La Drive to its intersection with the centerline of Old 41 Road, then proceeding southerly along the centerline of said Old 41 Road to its intersection with the centerline of Rosemary Creek, then proceeding northeasterly along the centerline of said Rosemary Creek to its intersection with the centerline and extended centerline of London Lane, thence proceeding southerly along the centerline of said London Lane to its intersection with the centerline of Bonita Drive, then proceeding westerly along the centerline of said Bonita Drive to its intersection with the centerline of Old 41 Road, then proceeding southerly along the centerline of said Old 41 Road to its intersection with the centerline of East Terry Street, then proceeding easterly along the centerline of said East Terry Street to its intersection with the centerline of Matheson Avenue, then proceeding southerly along the centerline of said Matheson Avenue to its intersection with the centerline of Longfellow Lane, then proceeding easterly along the centerline of said Longfellow Lane to its termination, then proceeding due east along the centerline or extended centerline of an utility easement evidenced by existing overhead power utility lines to the intersection of said easement’s centerline or extended centerline with the centerline of Imperial Street, which intersection is at a point north of the intersection of the centerlines of said Imperial Street and Imperial Oaks Circle, then proceeding southerly along the centerline and extended centerline of said Imperial Street to its intersection with the centerline of Kehl Canal, then proceeding easterly along the meandering centerline of Kehl Canal to its intersection with the eastern section line of Section 31, Township 47 South, Range 26 East, also being the eastern boundary of the City, then proceeding northerly along said eastern boundary of the City to the Point of Beginning of District 2.

District 3:

Beginning at a point (“Point of Beginning of District 3”) which is the intersection of the western boundary of the City with the centerline or extended centerline of the mouth of Big Hickory Pass in the Gulf of Mexico, then proceeding southeasterly and then easterly along the meandering centerline of Big Hickory Pass and then Broadway Channel easterly to its intersection with Estero Bay, then proceeding southerly through South Estero Bay, to the eastward of Bay Hickory Islands and its associated islands, to a point on the centerline and extended centerline of the mouth of the Imperial River in Estero Bay/ Fish Trap Bay, then proceeding easterly along the meandering centerline or extended centerline of said Imperial River to its intersection with the centerline or extended centerline of Arroyal Road, also being the eastern section line of Section 33, Township 47 South, Range 25 East, then proceeding southerly along the western right-of-way line or extended western right-of-way line of said Arroyal Road to its intersection with the centerline of Bonita Beach Road, then proceeding easterly along the centerline of said Bonita Beach Road to its intersection with the centerline of the railroad right-of-way of the Seaboard Coast Line Railroad, also known as the Seminole Gulf Railway (“Seaboard Coast Line Railroad”), then proceeding southwesterly along the centerline of said railroad right-of-way to its intersection with the border between Lee County and Collier County, also being both the southern boundary of the City and the southern section line of Sections 3 and 4, Township 48, Range 25 East, then proceeding westerly along the said

southern boundary of the City to its intersection with the western boundary of the City, also being the border between Lee County and Collier County, then proceeding northerly along the western boundary of the City to its intersection with the southern boundary of the City along Bonita Beach Road, also being the border between Lee County and Collier County, then proceeding westerly along said southern boundary of the City to its intersection with the Gulf of Mexico, then proceeding northerly along the western boundary of the City, along the Gulf of Mexico, to the Point of Beginning of District 3.

District 4:

Beginning at a point (“Point of Beginning of District 4”) along the centerline and extended centerline of the mouth of Spring Creek at its intersection with Estero Bay, then proceeding easterly along the meandering centerline of Spring Creek, excluding all islands in Spring Creek, to its intersection with the centerline of U.S. 41 (Tamiami Trail), then proceeding northerly along the centerline of said U.S. 41 to its intersection with the centerline of Strike Lane, then proceeding westerly along the centerline of said Strike Lane to its intersection with the centerline of Burnt Pine Drive, then proceeding northerly along the centerline of said Burnt Pine Drive to its intersection with the centerline of Pelican Landing Parkway, then proceeding easterly along the centerline of said Pelican Landing Parkway to its intersection with the centerline of Old 41 Road, then proceeding southeasterly along the centerline of said Old 41 Road to its intersection with the centerline of Strike Lane, then proceeding easterly along the centerline or extended centerline of said Strike Lane to its intersection with the western boundary of the right-of-way of Interstate 75, then proceeding southerly along the western boundary of said Interstate 75 right-of-way to its intersection with the centerline and extended centerline of Carnoustie Court, also known as Carnoustie Road, then proceeding westerly, then southerly, and then due west along the centerline of said Carnoustie Court to its intersection with the centerline of Paradise Road, then proceeding southerly along the centerline of Paradise Road to its intersection with the centerline of the northernmost portion of Carney Circle, then proceeding southerly along the centerline of said Carney Circle to a point where it rejoins and intersects with the centerline of said Paradise Road, then proceeding southerly along the centerline of said Paradise Road to its intersection with the centerline of the northernmost portion of Fenner Circle, then proceeding southerly along the centerline of said Fenner Circle to its intersection with the centerline of Paradise Road, then proceeding southerly along the centerline of said Paradise Road to its intersection with the centerline of Shangri-La Road, then proceeding westerly along centerline of said Shangri-La Road to its intersection with the centerline of Old 41 Road, then proceeding northwesterly along the centerline of said Old 41 Road to its intersection with the centerline of the northernmost right-of-way Imperial Harbor Boulevard, then proceeding southwestwardly along the centerline or extended centerline of said Imperial Harbor Boulevard right-of-way to its intersection with the centerline of the railroad right-of-way of the Seaboard Coast Line Railroad, then proceeding northwesterly along the centerline of said railroad right-of-way to its intersection with centerline or extended centerline of Spring Creek, thence proceeding westerly along the centerline of said Spring Creek to its intersection with the centerline of the Florida Power & Light Company utility easement, such intersection being northwest of the Imperial Harbor Community, then proceeding southerly along the centerline of said utility easement to its intersection with the centerline of West Terry Street, then proceeding westerly along the centerline of said West Terry Street to its intersection with the centerline of Holly Lane, then proceeding southerly along the centerline and extended centerline of said Holly Lane to its intersection with the centerline of the Imperial River, then proceeding westerly along the centerline of the Imperial River to its intersection with the extended centerline of Barbarossa Street, then proceeding southerly along the extended centerline and centerline of said Barbarossa Street to the centerline of Pennsylvania Avenue, then proceeding westerly along the centerline of said Pennsylvania Avenue to its intersection with the centerline of Tierra Del Sol Lane, then proceeding southerly along the centerline of said Tierra Del Sol Lane to its intersection with the centerline of Carolina Street, then proceeding westerly along the centerline of said Carolina Street to its intersection with the centerline of Southview Drive, then proceeding northerly along the centerline and

extended centerline of said Southview Drive to its intersection with the centerline and extended centerline of Gasparilla Drive, then proceeding northerly and then westerly along the centerline and extended centerline of said Gasparilla Drive to its intersection with the centerline of the Imperial River, then proceeding westerly along the centerline and extended centerline of said Imperial River to its intersection with the boundary of District 3 in Estero Bay/ Fish Trap Bay, and then proceeding northerly along the east boundaries of District 3 and then District 1, through Estero Bay, to the Point of Beginning of District 4.

District 5:

Beginning at a point (“Point of Beginning of District 5”) which is the intersection of the centerlines of Shangri-La Road and Old 41 Road, then proceeding southeasterly along the centerline of said Old 41 Road to its intersection with the centerline of Rosemary Creek, then proceeding northeasterly along the centerline of said Rosemary Creek to its intersection with the centerline and extended centerline of London Lane, then proceeding southerly along the centerline of said London Lane to its intersection with the centerline of Bonita Drive, then proceeding westerly along the centerline of said Bonita Drive to its intersection with the centerline of Old 41 Road, then proceeding southerly along the centerline of said Old 41 Road to its intersection with the centerline of Bonita Beach Road, then proceeding westerly along the centerline of said Bonita Beach Road to its intersection with the western right-of-way line or extended western right-of-way line of Arroyal Road, then proceeding northerly along the said western right-of-way line or extended western right-of-way line of said Arroyal Road to its intersection with the centerline of the Imperial River, then proceeding northerly and then easterly along the centerline of said Imperial River to its intersection with the extended centerline of Gasparilla Drive, then proceeding easterly and southerly along the centerline and extended centerline of said Gasparilla Drive to its intersection with the centerline of Southview Drive, then proceeding southerly along the centerline of said Southview Drive to its intersection with the centerline of Carolina Street, then proceeding easterly along the centerline of said Carolina Street to its intersection with the centerline of Tierra Del Sol Lane, then proceeding northerly along the centerline of said Tierra Del Sol Lane to its intersection with the centerline of Pennsylvania Avenue, then proceeding easterly along the centerline of said Pennsylvania Avenue to its intersection with the centerline of Barbarossa Street, then proceeding northerly along the centerline and extended centerline of said Barbarossa Street to its intersection with the centerline of the Imperial River, then proceeding easterly along the centerline of the Imperial River to its intersection with the extended centerline of Holly Lane, then proceeding northerly along the centerline and extended centerline of said Holly Lane to its intersection with the centerline of West Terry Street, then proceeding easterly along the centerline and extended centerline of said West Terry Street to its intersection with the centerline or extended centerline of the Florida Power & Light Company utility easement situated west of the Imperial Harbor Community, then proceeding northerly along the centerline of said utility easement to its intersection with the centerline or extended centerline of Spring Creek, such intersection being located northwest of the Imperial Harbor Community, then proceeding easterly along the centerline or extended centerline of said Spring Creek to its intersection with the centerline or extended centerline of the railroad right-of-way of the Seaboard Coast Line Railroad, then proceeding southeasterly along the centerline of said railroad right-of-way to its intersection with the centerline or extended centerline of the northernmost right-of-way of Imperial Harbor Boulevard, then proceeding northeasterly along the centerline of said Imperial Harbor Boulevard right-of-way to its intersection with the centerline of Old 41 Road, then proceeding southeasterly along the centerline of said Old 41 Road to the Point of Beginning of District 5.

District 6:

Beginning at a point (“Point of Beginning of District 6”) which is the intersection of the centerline of East Terry Street and the centerline of Old 41 Road, then proceeding easterly along the centerline or extended centerline of said East Terry Street to its intersection with the centerline or extended centerline of

Matheson Avenue, then proceeding southerly along the centerline of said Matheson Avenue to its intersection with the centerline of Longfellow Lane, then proceeding easterly along the centerline of said Longfellow Lane to the termination of said Longfellow Lane, then proceeding due east along the centerline or extended centerline of an utility easement evidenced by existing overhead power utility lines to the intersection of said easement's centerline or extended centerline with the centerline of Imperial Street, which intersection is at a point north of the intersection of the centerlines of said Imperial Street and Imperial Oaks Circle, then proceeding southerly along the centerline and extended centerline of said Imperial Street to its intersection with the Kehl Canal, then proceeding easterly along the centerline and extended centerline of the Kehl Canal to its intersection with the eastern section line of Section 31, Township 47 South, Range 26 East, then proceeding southerly along said eastern section line of Section 31 to its intersection with the southern boundary of the right-of-way of Bonita Beach Road, then proceeding easterly along the southern boundary of said Bonita Beach Road right-of-way to its intersection with the intersection of Sections 34 and 35 of Township 47 South and Sections 2 and 3 of Township 48 South, Range 26 East, then proceeding southerly along the eastern section line of Section 3 of Township 48 South, Range 26 East to its intersection with the intersection of Sections 2, 3, 10, and 11 of Township 48 South, Range 26 East, then proceeding westerly along the border between Lee County and Collier County to the centerline of the railroad track right-of-way of the Seaboard Coast Line Railroad, then proceeding northeasterly along the centerline of said railroad right-of-way to its intersection with the centerline of Bonita Beach Road, then proceeding easterly along the centerline of said Bonita Beach Road to its intersection with the centerline of Old 41 Road, then proceeding northerly along the centerline of said Old 41 Road to the Point of Beginning of District 6.

Note: It is intended that the foregoing Districts shall be identical to those districts depicted on that certain map titled "City of Bonita Springs - Proposed Map VA006A2" prepared by Strategic Technologies & Research, Inc. and approved by the City Council of Bonita Springs on or about May 1, 2002 ("Map"), and the property annexed within the City of Bonita Springs in Ordinance No. 02-12. In the event of any error, omission, inconsistency, or discrepancy between the descriptions of the Districts above and those depicted on the Map, the contents of the Map shall govern.

- (c) In the year 2001, and in the odd-numbered years after each decennial census thereafter, and at any time when required by law, the City Council may redivide the City into six districts as roughly equal in permanent population (along precinct lines) as practical.

[Legal Descriptions Revised 02-17, Adopted 12-18-02]

Section 54. Initiative and referendum.

The powers of initiative and referendum are hereby reserved to the qualified registered voters of the City. The provisions of the election laws of the state, as they currently exist or may hereafter be amended or superseded, shall govern the exercise of the powers of initiative and referendum under this charter.

Section 55. Recall.

The qualified voters of the City shall have the power to remove from office any elected official for unethical or illegal conduct or actions resulting in the endangerment of the public health and safety, malfeasance of office, or dereliction of duties. A recall election shall be held as provided for by the Florida Election Code.

[Amended by Charter Amendment 14, Election 3-12-02]

Section 56. Code of ethics.

It is essential to the proper conduct and operation of the City that the officers and employees of the City be independent and impartial and for their office not to be used for private gain other than the remuneration provided by law or by ordinances. It is declared to be the policy of the City that its officers and employees are agents of the people and hold their position for the benefit of the public. Therefore, all City officers, employees, and the City Attorney shall adhere to the Standards of Conduct as set forth under Part III, Chapter 112, Florida Statutes, as amended from time-to-time.

Section 57. Amendments to City charter.

This Charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, as the same may be amended from time-to-time, or its successor, or as may otherwise be provided by general law. City Council shall establish a Charter Review Committee, appointed by City Council, to meet at least every ten years after dissolution of the previous Charter Review Committee to consider and make recommendations to City Council relative to the City Charter. The City Council may, by ordinance, or the qualified registered voters of the City may, by petition signed by 10 percent of the electors registered to vote in the last regular City general election, submit to the electors of the City a proposed amendment to any part or all of this Charter. The form, content, and certification of any petition to amend shall be established by ordinance.

[Editor's Note: Bonita Springs Ordinance No. 03-16, adopted August 20, 2003, establishes form, content and certification of petition]

[Amended by Charter Amendment 10, Election 1-26-10]

Section 58. Election.

The City Council shall place the proposed amendment contained in the ordinance or petition to a vote of the electors of the City at the next City election or at a special election called for such purpose.

Section 59. Adoption of amendment.

If a majority of the registered voters of the City vote in favor of a proposed charter amendment, the amendment shall become effective at the time fixed in the amendment or, if no time is therein fixed, 30 days after its adoption by the voters.

Section 60. Reserved.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

Section 61. Reserved.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

Section 62. Officers and employees.

Nothing in this charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time the City is created.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

Section 63. Reserved.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

Section 64. Pending matters.

All rights, claims, actions, orders, contracts, and administrative proceedings affecting the area incorporated into the City shall continue with the County and/or state agency having jurisdiction over such matter, except as modified, pursuant to the provisions of this charter.

Section 65. State and County laws.

In general, all County ordinances, resolutions, orders, and regulations which are in force when this charter becomes effective are repealed to the extent they are inconsistent with this charter or with ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Florida permit, all laws relating to or affecting the City of Bonita Springs or its agencies, officers, or employees which are in force when this charter becomes effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this charter or of ordinances or resolutions adopted pursuant thereto.

Section 66. Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 67. Creation and establishment of the City of Bonita Springs.

For the purpose of compliance with Section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the City of Bonita Springs is hereby created and established effective December 31, 1999.

Section 68. Early assumption of duties by City Council.

The initial City Council shall have the authority and power to enter into contracts, arrange for the hiring of interim legal counsel, begin recruiting applicants for the position of City Manager, provide for necessary City offices and facilities, and do such other things as it deems necessary and appropriate for the City to become operational on December 31, 2000.

Section 69. Reserved.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

Section 70. Transitional ordinances and resolutions.

The Council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 90 days after the first Council meeting may be passed as emergency ordinances as provided in this charter except the transitional ordinances shall be effective for no longer than 90 days after adoption and; thereafter, may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

Section 71. Transitional comprehensive plan.

Until such time as the City adopts a comprehensive plan, the Lee County Comprehensive Plan, as the same exists on the day the City commences corporate existence, shall remain in effect as the City's transitional comprehensive plan. However, all planning functions, duties, and authority shall thereafter be vested in the Council, which shall be deemed the local planning agency until the Council establishes a separate local planning agency.

Section 72. Transitional land development regulations.

To implement the transitional comprehensive plan when adopted, the City shall, in accordance with the procedures required by the laws of the State of Florida, adopt ordinances providing for land development regulations within the corporate limits. Until the City adopts the ordinances:

- (a) The comprehensive land use plan and land development regulations of Lee County, as the same exists on the date the City commences corporate existence, shall remain in effect as the City's transitional land development regulations and comprehensive land use plan.
- (b) All powers and duties of the Lee County Department of Community Development, Lee County Hearing Examiner, and County Commission of Lee County, as set forth in these transitional land development regulations, shall be vested in the City Council until such time as the City Council delegates all, or a portion thereof, to another agency, department, or entity.
- (c) Subsequent to the adoption of a local comprehensive plan, subject to general law, the Council is fully empowered to amend, supersede, enforce, or repeal the transitional land development regulations, or any portion thereof, by ordinance.
- (d) Subsequent to the commencement of the City's corporate existence, no amendment of the comprehensive plan or land development regulations enacted by the Lee County Commission shall be deemed an amendment of the City's transitional comprehensive plan or land development regulations or otherwise take effect within the City's municipal boundaries.

Section 73. State-Shared Revenues.

The City of Bonita Springs shall be entitled to participate in all revenue sharing programs of the State of Florida effective on the date of incorporation. The provisions of s.218.23(1), Florida Statutes, shall be waived for the purposes of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 2002-2003. For purposes of meeting the provisions of s.218.23(1), Florida Statutes, relating to ad valorem taxation, the millage levied by special districts may be used for an indefinite period of time. Initial revised population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the Bureau be unable to provide an appropriate population estimate, the Lee County Department of Community Development shall provide the estimate.

Section 74. Reserved.

[Revised by Ordinance No. 03-03, adopted 3-5-03]

Section 75. Contractual Services and facilities.

Contractual services for fire, police, emergency management, public works, parks and recreation, planning and zoning, building inspection, development review, animal control, and solid waste collection may be supplied by a contract between the City and Lee County, special districts, municipalities, or

private enterprise until such time as the City Council establishes such independent services. Facilities for housing the newly formed municipal operations may be rented or leased until the City is in the position to obtain its own facilities.

Section 76. Elimination of transition elements from the charter.

Upon completion of the transition phase as contained herein, those sections of the charter relating to transition may be eliminated from the charter by City Council by adoption of a regular ordinance.

[Amended by Charter Amendment 12, Election 3-12-02]

Section 77. Independent special districts.

It is recognized that certain services within the municipal boundaries are provided by independent special districts whose boundaries lie wholly within the municipal boundaries of Bonita Springs and are created by special acts of the Florida Legislature. The municipality is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the special districts, or upon affirmative vote of a majority of the City Council and an affirmative vote of the majority of the Council or Board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and Chapter 189, Florida Statutes. It is recognized that certain planning and interlocal agreements may be necessary between the City and such districts and the City Council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the City Council desires to supplement or duplicate services determined to be inadequate, the Council is fully empowered to do so.

Article II

Severability as to this act. – If any provision of this act, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Article III

This act shall take effect upon approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed City of Bonita Springs as described in Section 6 voting in a referendum election to be called by the Lee County Commission to be held November 2, 1999, in accordance with the provisions of law relating to elections currently in force, except that this section shall take effect upon becoming a law.