

**ORDINANCE NO. 2016-01**

**AN ORDINANCE OF THE TOWN OF PIERSON AMENDING THE TOWN CHARTER PURSUANT TO SECTION 166.021, SUBSECTIONS (4) AND (5), FLORIDA STATUTES; RECOGNIZING AND EFFECTUATING THE REPEAL OF CHARTER PROVISIONS THAT CONSTITUTED A LIMITATION OF POWER OF THE TOWN OF PIERSON PRIOR TO JULY 1, 1973; RECOGNIZING AND EFFECTUATING THE CONVERSION OF CERTAIN CHARTER PROVISIONS TO ORDINANCES OF THE TOWN OF PIERSON AND REPEALING PORTIONS THEREOF; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ANY CONFLICTS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Pierson Town Council has established a Charter Review Committee to review the Pierson Town Charter and provide to the Town Council recommendations for the revision of the Town Charter; and

**WHEREAS**, the Florida Attorney General recognized in AGO 77-135, when construing the Municipal Home Rule Powers Act, that “provisions of municipal charters and special acts which were in effect on July 1, 1973, and which constituted limitations on municipal power or which pertained exclusively to the power or jurisdiction of a municipality were nullified and repealed or converted into ordinances by subsections (4) and (5) of s. 166.021”; and

**WHEREAS**, Section 166.021(5), Fla. Stat., provides “All existing special acts pertaining exclusively to the power or jurisdiction of a particular municipality except as otherwise provided in subsection (4) shall become an ordinance of that municipality on the effective date of this act, subject to modification or repeal as other ordinances”; and

**WHEREAS**, based upon the review conducted by the Charter Review Committee, the Town Council desires to recognize and effectuate the conversion to ordinances and repeal of certain charter provisions as set forth herein in a manner consistent with Chapter 166, Fla. Stat.; and

**WHEREAS**, the Florida Attorney General recognized in AGO 2001-43 and AGO 75-223 that the above-described revisions to a municipal charter may be effectuated without a referendum where the provisions at issue have not been amended since July 1, 1973; and

**WHEREAS**, review of the amendment history of the Pierson Town Charter has revealed and the Town Council finds that provisions of the Pierson Town Charter at issue have not been amended since July 1, 1973.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PIERSON, FLORIDA:**

**Section 1.** Those portions of the Pierson Town Charter set forth in Exhibit “A”, attached hereto and incorporated herein, are hereby recognized as and conversion is hereby effectuated to ordinances of the Town of Pierson.

**Section 2.** Those portions of Exhibit “A” containing strikethroughs are hereby repealed as a limitation of power upon a municipality contained in any municipal charter enacted or adopted prior to July 1, 1973 pursuant to Section 166.021(4), Fla. Stat., as contrary to either the State Constitution or Federal Constitution pursuant to Section 166.031(5), Fla. Stat., or as otherwise authorized pursuant to Section 166.021(5), Fla. Stat.

**Section 3.** Exhibit “A” shall be codified in the Town of Pierson Code of Ordinances in a chapter so designated in the discretion of the code codifier.

**Section 4.** The Pierson Town Charter is hereby amended and renumbered to read as set forth in Exhibit “B”, attached hereto and incorporated herein.

**Section 5.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

**Section 6.** This Ordinance shall become effective upon final adoption by the Town Council.

The within and foregoing Ordinance was introduced and read on first reading before the Town Council of the Town of Pierson, Florida at its meeting held at Pierson Town Hall held on the \_\_\_\_ day of \_\_\_\_\_, 2016.

It was moved by Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_ that said Ordinance be approved on first reading. A roll call vote of the Council held on said motion for approval of the Ordinance resulted as follows:

Samuel G.S. Bennett, Chairman	_____
James T. Peterson, Vice Chairman	_____
Thomas Larrivee, Council Member	_____
Robert Greenlund, Council Member	_____
Herbert Bennett, Council Member	_____

The within and foregoing Ordinance was introduced and read on second reading before the Town Council of the Town of Pierson, Florida at its meeting held at Pierson Town Hall held on the \_\_\_\_ day of \_\_\_\_\_, 2016.

It was moved by Council Member \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_ that said Ordinance be adopted. A roll call vote of the Council held on said motion to adopt the Ordinance resulted as follows:

Samuel G.S. Bennett, Chairman	_____
James T. Peterson, Vice Chairman	_____
Thomas Larrivee, Council Member	_____
Robert Greenlund, Council Member	_____
Herbert Bennett, Council Member	_____

Whereupon the Chairman of the Town of Pierson, Florida, has hereunto set his official signature, duly attested by the Town Clerk, and has caused the official seal of said Town to affixed, at Pierson Town Hall, this \_\_\_\_\_ day of \_\_\_\_\_, 2016 for the purpose of authenticity as is required by law.

Attest:

\_\_\_\_\_  
Carmen M. Spelorzi, Town Clerk

\_\_\_\_\_  
Samuel G. S. Bennett, Chairman  
Pierson Town Council