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ORDINANCE NO. 1477

AN ORDINANCE OF THE CITY OF COCOA BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE CHARTER OF THE CITY OF COCOA BEACH, BY AMENDING ARTICLE II, "CITY COMMISSION" SECTION 2.03., "ELECTIONS, HOW DECIDED", BY REMOVING THE OPTION TO HOLD SPECIAL ELECTIONS WITHIN NINETY (90) DAYS, AND BY AMENDING SECTION 2.06, "FILLING OF VACANCIES", BY REMOVING THE OPTION TO HOLD SPECIAL ELECTIONS WITHIN NINETY (90) DAYS; PROVIDING FOR A REFERENDUM ON THE QUESTION OF APPROVAL OF THE PROPOSED REVISIONS; PROVIDING FOR FILING THE REVISED CHARTER WITH THE FLORIDA DEPARTMENT OF STATE; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS OF BREVARD COUNTY, FLORIDA; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, the City of Cocoa Beach Charter Review Committee was created for the purpose of reviewing the Charter of the City of Cocoa Beach and determining if any changes are needed; and

WHEREAS, the Charter Review Committee met during 2008 to review the Charter and considered changes thereto; and

WHEREAS, the Charter Review Committee has submitted to the City Commission its report and proposed changes to the City Charter; and

WHEREAS, the City Commission has reviewed the proposed changes to the City Charter and determined such changes should be submitted to the electors of the City of Cocoa Beach for their consideration at an upcoming election; and

WHEREAS, public hearings on the proposed Charter amendments hereinafter described were duly advertised and held by the City Commission of the City of Cocoa Beach, and at such hearings interested parties and citizens for and against the proposed amendments were heard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCOA BEACH, FLORIDA:

SECTION ONE: CHARTER AMENDMENT. For purposes of interpreting the revisions text that is underlined is an addition to the existing text of the City Charter and text that is ~~stricken through~~ is a deletion from the existing text of the City Charter.

The Charter of the City of Cocoa Beach Florida is amended to read as follows:

ARTICLE II. CITY COMMISSION

* * * *

Sec. 2.03. Elections, how decided.

Candidates in city general elections shall be elected by a plurality vote of those voting. If two (2) or more candidates qualify for one (1) seat, the candidate receiving the plurality of the vote cast for that seat shall be declared elected.

If only one (1) candidate qualifies for a seat within the time limit for qualification, or if a vacancy in candidacy caused by death, withdrawal or removal from the ballot of qualified candidates, following the end of the qualifying period, which leaves fewer than two candidates for the office, that candidate shall be declared elected to that seat. If no candidate qualifies for a seat, or if all candidates for a seat either withdraw, are removed from the ballot or die, after the close of the qualifying period, but before the election, the term of the commissioner holding that seat shall be

1 extended until ~~a special~~ the next regular election. which shall be held not more than
2 ninety (90) days after the end of the candidate qualifying period in which no candidate
3 qualified for the seat in question.

4 * * * *

7 **Sec. 2.06. Filling of vacancies.**

8
9 By a majority vote of its remaining members, the city commission may appoint
10 a qualified person to fill any vacancy on the city commission, and such person shall
11 serve until a successor is elected as provided for in this section. Such vacancy shall be
12 subsequently filled by the voters for the remainder of the unexpired term, if any, at the
13 next a special or regularly scheduled election that occurs at least 90 days after the
14 occurrence of the vacancy. ~~that shall be held not more than ninety (90) days after the~~
15 ~~occurrence of the vacancy.~~ If at any time the membership of the city commission is
16 reduced to less than three (3), the governor shall fill such vacancies and the members
17 of the city commission appointed by the governor shall serve until such vacancies are
18 filled by election as provided in this section. Should there be a vacancy in the office of
19 the mayor, the vice-mayor shall serve until such time as the vacancy is filled by
20 election as provided in this section. The commission shall then appoint an acting vice
21 mayor.

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23
24 **SECTION TWO: REFERENDUM:** The question of amendment of the Charter of the City of Cocoa
25 Beach, Florida, as provided in this Ordinance shall be submitted to a vote of electors of the City at a
26 referendum election to be held in the City of Cocoa Beach on November 4, 2008.

27
28 **SECTION THREE: BALLOT QUESTION:** The form of the ballot title shall be in a clear, concise
29 statement describing the substance of the proposed charter amendment without argument or prejudice.
30 Below the ballot title shall appear the following question:

31
32 **CITY CHARTER AMENDMENT – ELIMINATION OF SPECIAL ELECTIONS FOR CANDIDATES**

33
34 A Charter amendment is proposed, which will remove the option to hold
35 special elections to elect City Commission members in case of a vacancy
36 on the Commission, and require for such vacancies to be filled by a vote
37 at the next regular election that occurs at least ninety (90) days after the
38 vacancy.

39
40 Should the above-described Charter amendment be adopted?

41
42 YES, FOR AMENDMENT _____

43
44 NO, AGAINST AMENDMENT _____

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47 **SECTION FOUR: EFFECTIVE DATE:** Upon adoption of the revised Charter by a majority of the electors
48 voting in the referendum, the City Commission shall have said amendments incorporated into the City
49 Charter and shall file the revised Charter with the Florida Department of State as provided by Chapter 166,
50 Florida Statutes, at which time the revised Charter provision will go into effect.


51
52 **SECTION FIVE: COORDINATION WITH SUPERVISOR OF ELECTIONS :** The City Clerk is hereby
53 authorized and directed to instruct and coordinate with the Supervisor of Elections of Brevard County,
54 Florida, to include the ballot question set forth in Section 3 on the ballot of the General Election to be held
55 in the City of Cocoa Beach and Brevard County, Florida, on November 4, 2008.

56
57 **SECTION SIX: SEVERABILITY:** In the event that any term, provision, clause, sentence or section of this
58 Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or

1 invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of
2 the other or remaining terms, provisions, clauses, sentences or sections of this Ordinance, and this
3 Ordinance shall be read and/or applied as if the invalid, illegal or unenforceable term, provision, clause,
4 sentence, or section did not exist.
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7 **ADOPTED** at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the
8 21st day of August, 2008.
9

10 ATTEST:

11 
12 _____
13 Loredana Kalaghchy, CMC
14 City Clerk
15


16 _____
17 Leon "Skip" Beeler III,
18 Mayor-Commissioner

19 First Reading: 08/07/2008 Date Posted: 08/08/2008 Date Published: 08/11/2008
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22 Ayes: 5 Nays: 0
23 Absent or Abstaining: 0
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