

ORDINANCE NO. 1626

1  
2  
3 AN ORDINANCE OF THE CITY OF COCOA BEACH, BREVARD COUNTY, FLORIDA,  
4 PROPOSING AN AMENDMENT TO THE CHARTER OF THE CITY OF COCOA BEACH,  
5 THAT MAKES CERTAIN TECHNICAL, CORRECTIVE AND CONFORMING CHANGES TO  
6 THE CHARTER TO CORRECT SCRIVENER'S AND GRAMMATICAL ERRORS, PROVIDES  
7 CLARIFYING DEFINITIONS RELATING TO CITY BOARDS, COMMITTEES AND  
8 DEPARTMENTS, CONFORMS CITY BUDGET PROCEDURES TO CURRENT STATE LAW,  
9 AND ADDS CLARIFICATIONS TO MAKE THE CHARTER EASIER TO READ AND  
10 UNDERSTAND; PROVIDING FOR A REFERENDUM ON THE QUESTION OF APPROVAL  
11 OF THE PROPOSED AMENDMENT; PROVIDING FOR QUESTION NUMBERING;  
12 PROVIDING FOR FILING THE REVISED CHARTER WITH THE FLORIDA DEPARTMENT  
13 OF STATE; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS  
14 OF BREVARD COUNTY, FLORIDA; PROVIDING FOR CONFLICTS, SEVERABILITY AND  
15 AN EFFECTIVE DATE.

16  
17 WHEREAS, the City Commission is authorized by City Charter Section 9.01 to propose amendments to  
18 the City Charter; and

19  
20 WHEREAS, the City of Cocoa Beach Charter Review Committee was created for the purpose of  
21 reviewing the Charter of the City of Cocoa Beach and making recommendations to the City Commission as to  
22 whether any changes were needed; and

23  
24 WHEREAS, the Charter Review Committee met during 2017 and 2018 to review the Charter and  
25 considered changes thereto; and

26  
27 WHEREAS, the Charter Review Committee has submitted to the City Commission its report and  
28 proposed changes to the City Charter; and

29  
30 WHEREAS, the City Commission has reviewed the proposed changes to the City Charter and  
31 determined that those changes contained in proposed Question #2 should be submitted to the electors of the  
32 City of Cocoa Beach for their consideration at an upcoming election; and

33  
34 WHEREAS, public hearings on the proposed Charter amendments hereinafter described were duly  
35 advertised and held by the City Commission of the City of Cocoa Beach, and at such hearings interested parties  
36 and citizens for and against the proposed amendments were heard; and

37  
38 WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original  
39 text, \*\*\* shall constitute ellipses to the original text, and ~~strikethrough~~ shall constitute deletions to the original  
40 text.

41  
42 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCOA  
43 BEACH, FLORIDA:

44  
45 **SECTION 1. CHARTER AMENDMENT.** Upon approval of this charter amendment at referendum, the  
46 foregoing portions of Sections 2.06, 2.07, 2.08, 3.01, 4.01, 4.05, 5.01, 7.02, and 7.03 of the Cocoa Beach City  
47 Charter are amended to read as follows:

48  
49 **Sec. 2.06. - Filling of vacancies.**

50  
51 By a majority vote of its remaining members, the city commission may appoint a qualified  
52 person to fill any vacancy on the city commission, and such person shall serve until a  
53 successor is elected as provided for in this section. Such vacancy shall be subsequently filled  
54 by the voters for the remainder of the unexpired term, if any. The election in November of all  
55 even-numbered years shall be held to fill a vacancy in the office of commissioner that either  
56 occurs prior to August 1 of that year or where the City Clerk receives an irrevocable resignation  
57 of a commissioner, ten (10) days prior to the first day of qualifying for the November election  
58 and effective on or about the date of said election. If at any time the membership of the city  
59 commission is reduced to less than three (3), the governor shall fill such vacancies and the

**ORDINANCE NO. 1626**

members of the city commission appointed by the governor shall serve until such vacancies are filled by election as provided in this section. Should there be a vacancy in the office of the mayor, the vice-mayor shall serve until such time as the vacancy is filled by election as provided in this section. The commission shall then appoint an acting vice-mayor.

**Sec. 2.07. - General powers and duties.**

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

The affirmative vote of three (3) or more members of the city commission (which vote shall constitute a majority vote as used in this charter) shall be required to adopt any action of the commission, except as may otherwise be provided by emergency management matter ordinances or as otherwise set forth in the charter. Voting requirements for the following are specified within the following charter sections:

- Residential density limits - Section 6.01
- Building height limit - Section 6.04
- Community Redevelopment Agency - Section 6.06
- Comprehensive Plan adoption - Section 6.07
- Transfer and relinquishment of interest in real property - Section 6.10
- Amend Results of Referendum - Section 7.06.

**Sec. 2.08. - Appointments.**

The city commission shall appoint and remove the city manager, ~~or remove the city manager,~~ the city attorney, and the members of all city boards and special committees.

**Sec. 3.01. - City Manager Appointment, and Powers and Duties.**

There shall be a city manager who shall be responsible to the commission for the administration of all city affairs. The city manager shall be appointed by the city commission and shall serve at the pleasure of the city commission. The compensation of the city manager shall be fixed by the commission.

The city manager shall:

- (1) Execute the laws and administer the government of the city except as limited in this charter.
- (2) Appoint and remove any employee of the city except as otherwise provided by this Charter. The city manager may authorize department directors to appoint and remove subordinates in their departments, unless these powers are otherwise limited by law.
- (3) Prepare the budget annually and submit it to the city commission ~~on or before the first day of August in a time and manner pursuant to Florida law.~~
- (4) Prepare and submit to the city commission, ~~as of the end of the fiscal year,~~ a complete report on finances and administrative activities of the city as of the end of the fiscal year, including the annual audit for the preceding year.
- (5) Keep the city commission advised of the financial condition and future needs of the city and make such recommendations as may seem desirable.
- (6) Perform such other duties as may be prescribed by this charter or may be required by the city commission consistent with the Charter.

**ORDINANCE NO. 1626**

**Sec. 4.02. - Board Operation and Membership.**

The functions of boards shall be defined by ordinance. Members of boards shall be voters of the city who volunteer for such service. People may serve on only one board at a time. Appointive city advisory bodies designated as committees are not boards and not subject to the aforementioned requirements.

**Sec. 4.05. - Code enforcement board and/or Special Master.**

The city commission shall establish a code enforcement board, a and/or special master, or both, to assist the City in enforcing laws that provide for the protection of the health, safety and welfare of the citizens. The board and or special master exercise the requirements provided in the State Statutes.

**Sec. 5.01. - Submission of budget and budget message.**

In a time and manner pursuant to Florida law ~~On or before the first day of August of each year,~~ the city manager shall submit to the city commission a budget for the ensuing fiscal year and an accompanying explanatory message.

**Sec. 7.03. - Referendum petitions.**

- (a) Number of signatures. Referendum petitions must be signed by qualified voters of the city equal in number to at least ten per cent (10%) of the registered voters at the most recent city election.
- (b) Form and content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the person signing. Petitions shall contain or shall have attached to them throughout their circulation the full text of the proposed ordinance, amendment, or repeal request.
- (c) Affidavit of circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by its circulator stating that the circulator, personally circulated the paper, giving the number of signatures on the paper, and stating that all the signatures were affixed in the circulator's presence, that the circulator believes them to be the genuine signatures of the persons whose names they purport to be, and that each signer had an opportunity before signing to read the full text of the proposed ordinance, amendment, or repeal request.

**SECTION 2. REFERENDUM.** The question of amendment of the Charter of the City of Cocoa Beach, Florida, as provided in this Ordinance shall be submitted to a vote of electors of the City at a referendum election to be held in the City of Cocoa Beach on November 6, 2018.

**SECTION 3. BALLOT TITLE AND BALLOT SUMMARY.** The ballot title and ballot summary that shall appear on the referendum election ballot for this proposed charter amendment are as follows:

**COCOA BEACH CITY CHARTER  
CLEANUP AMENDMENT**

Shall the Cocoa Beach City Charter be amended to make certain technical, corrective and conforming changes to the Charter to correct scrivener's and grammatical errors, provide clarifying definitions relating to City boards, committees and departments, conform City budget procedures to current state law, and add clarifications to make the Charter easier to read and understand?

\_\_\_\_\_ Yes  
\_\_\_\_\_ No

**ORDINANCE NO. 1626**

175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227

**SECTION 4. QUESTION NUMBERING.** The aforementioned ballot title and ballot summary shall appear on the ballot designated as "Question No. 2", provided however, that in the event the City Commission does not approve a proposed charter amendment for the same ballot designated as "Question No. 1", this referendum shall appear on the ballot designated as "Question No. 1".

**SECTION 5. COORDINATION WITH SUPERVISOR OF ELECTIONS.** The City Clerk is hereby authorized and directed to instruct and coordinate with the Supervisor of Elections of Brevard County, Florida, to include the ballot question set forth in Section 3 on the ballot of the General Election to be held in the City of Cocoa Beach and Brevard County, Florida, on November 6, 2018.


**SECTION 6. CONFLICTS.** All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

**SECTION 7. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein. It will be presumed that the City Commission for the City of Cocoa Beach did not intend to enact any invalid or unconstitutional provision. It shall further be presumed that the City Commission would have enacted the remainder of this Ordinance without any invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

**SECTION 8. EFFECTIVE DATE.** Upon adoption of the proposed Charter amendment by a majority of the electors voting in the referendum, the City Commission shall have said amendments incorporated into the City Charter and shall file the revised Charter with the Florida Department of State as provided by Chapter 166, Florida Statutes, at which time the revised Charter provision will go into effect.

Upon Motion by Commissioner Martinez, seconded by Commissioner Woulas, this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 2 day of August, 2018.

Ayes: 5  
Nays: 0  
Absent or Abstaining: 0  
  
Ben Malik,  
Mayor-Commissioner

ATTEST  
  
Loredana Kalaghchy, MMC  
City Clerk

First Reading: July 19, 2018  
Date Posted: July 16, 2018  
Date Published: July 23, 2018