

ORDINANCE NO. 2021-24 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, CALLING FOR A REFERENDUM OF THE QUALIFIED ELECTORS OF THE CITY OF LAKE WORTH BEACH TO BE HELD ON MARCH 8, 2022, AS TO WHETHER SECTION 5 OF ARTICLE III OF THE CITY OF LAKE WORTH BEACH CHARTER SHALL BE AMENDED TO PROVIDE THAT A VACANCY ON THE CITY COMMISSION, WHEN THERE ARE LESS THAN SIX MONTHS REMAINING IN THE UNEXPIRED TERM OR LESS THAN SIX MONTHS BEFORE THE NEXT REGULAR CITY ELECTION, SHALL BE FILLED BY THE REMAINING MEMBERS NO LATER THAN 24 HOURS PRIOR TO THE OPENING OF THE QUALIFYING PERIOD; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR REFERENDUM CANVASSING; PROVIDING FOR SEVERABILITY, CODIFICATION, REPEAL OF ALL CONFLICTING LAWS AND AN EFFECTIVE DATE

WHEREAS, a Charter for the City of Lake Worth Beach, Florida (the "City") was created and adopted pursuant to the Constitution and applicable laws of the State of Florida; and

WHEREAS, pursuant to section 166.021, Florida Statutes, the City has the governmental, corporate and proprietary powers to enable it to conduct municipal government; and

WHEREAS, pursuant to section 166.021(4), Florida Statutes, the City Charter may be amended through the City's exercise of its authority, including the amendment of those portions of its Charter which require a referendum, provided that a majority of the electors in a referendum affirmatively vote to amend the Charter; and

WHEREAS, section 166.031, Florida Statutes, authorizes the governing body of a municipality to submit proposed amendments to the Charter of the municipality in the form of an ordinance to the electors of the municipality; and

WHEREAS, Article III, Section 5 of the City's Charter currently provides that when there is a vacancy on the city commission and there is less than six (6) months remaining in the unexpired term or when there are less than six (6) months before the next regular city election, the city commission, by a majority vote of the remaining members, are required to appoint a successor to serve until a newly elected commissioner or mayor is qualified; and

WHEREAS, there is no time limitation on when this appointment should be made by the remaining members of the commission; and

WHEREAS, the City Commission wishes to include a deadline on the appointment of successors to fill a vacancy on the commission under these particular circumstances; and

WHEREAS, the City Commission deems it to be in the best interests of the City and serving a valid public purpose to conduct a referendum (the "Referendum") on the question of whether Article III, Section 5 of the Charter of the City of Lake Worth Beach be amended to provide that a vacancy on the city commission, when there are less than six (6) months remaining in the unexpired term or less than six (6) months before the next regular city election, shall be filled by the remaining members of the commission no later than twenty-four (24) hours prior to the opening of the qualifying period for the next city election.

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

Section 1. Findings adopted. The findings of the Commission set forth in the foregoing recitals are hereby adopted as true and correct statements and specifically made a part of this Ordinance.

Section 2. Referendum declared. A referendum is hereby called for and shall be held in the City on the 8th day of March, 2022, to determine whether or not a majority of the electors voting in the Referendum support the proposed amendment to the City Charter, as shown in Sections 6 and 7 of this Ordinance.

Section 3. Ballot title. The ballot title which is the subject of this Referendum, and by which the proposed Charter Amendment is to be commonly referred to or spoken of, shall be captioned as "**Deadline for Appointment of Successor to Fill Vacancy on City Commission.**"

Section 4. Conduct of Referendum. The City shall determine the polling locations or places in coordination with the Palm Beach County Supervisor of Elections, and all qualified electors of the City of Lake Worth Beach, Florida who vote in the Referendum shall vote at those designated polling places. The polls shall be opened on the date of the Referendum on the proposed City of Lake Worth Beach, Florida Charter Amendment from 7:00 a.m. until 7:00 p.m. on the same day. Only the duly qualified electors of the City of Lake Worth Beach, Florida shall be permitted to vote on this Referendum question.

Section 5. Notice and advertising of the Referendum. The City Clerk shall prepare and give notice of the proposed Charter Amendment by causing appropriate notice to be published in accordance with the provisions of Section 100.342, Florida Statutes, which provides for at least one publication each week during the third and fifth weeks preceding the week in which the Referendum to consider the proposed Charter Amendment is to be held. The publications shall be placed in a newspaper of general circulation in the City. The City Clerk shall secure from the publisher of the newspaper, an appropriate affidavit of proof that the statutorily required Referendum notices have been duly published, as herein set forth and these two affidavits shall be part of the record of the City Commission.

Section 6. Ballot summary. The ballot summary of the proposed Charter amendment shall be:

SHALL THE CITY OF LAKE WORTH BEACH AMEND ITS CHARTER AT

ARTICLE III, SECTION 5 TO PROVIDE THAT WHEN THE CITY COMMISSION IS REQUIRED TO FILL A VACANCY ON THE COMMISSION BY APPOINTMENT, SUCH APPOINTMENT SHALL BE MADE BY THE REMAINING MEMBERS OF THE COMMISSION NO LATER THAN 24 HOURS PRIOR TO THE OPENING OF THE QUALIFYING PERIOD FOR THE NEXT CITY ELECTION?

YES _____

NO _____

Section 7. Charter amendment. In the event that the majority of electors of the City voting in the Referendum vote affirmatively to amend Article III, Section 5 of the City Charter, then said Article and Section shall be amended to read as follows:

ARTICLE III. LEGISLATIVE

* * *

Sec. 5. – Vacancies; forfeiture of office; filling of vacancies.

(a) *Vacancies.* The office of the mayor or of a commissioner shall become vacant upon the death, resignation, removal from office in any manner authorized by law, or forfeiture of such office by a member; such vacancy to be declared by the remaining members of the commission.

(b) *Forfeiture of office or candidacy.* The mayor or a commissioner shall forfeit such office or candidacy if lacking at any time during a term of office or candidacy any qualification for the office prescribed by this charter or by law.

(c) *Filling of vacancies.* A vacancy of the city commission shall be filled in one of the following ways:

(1) If there are less than six (6) months remaining in the unexpired term or if there are less than six (6) months before the next regular city election, the city commission by a majority vote of the remaining members shall choose and appoint a successor to serve until a newly elected commissioner or mayor is qualified. Such appointment shall be made no later than twenty-four (24) hours prior to the opening of the qualifying period for the next city election. If a vacancy occurs after the opening of the qualifying period for the next city election, then this deadline will not apply.

(2) If there are more than six (6) months remaining in the unexpired term and no general city election is scheduled within six (6) months, the city commission shall fill the vacancy by a special election to be held no more than sixty (60) days following the occurrence of the vacancy. If a run-off election is necessary, it shall be scheduled two (2) weeks after the special election.

(d) *Extraordinary vacancies.* In the event that three (3) or more members of the city commission are removed by death, disability, the law, or forfeiture of office, the governor

shall appoint an interim commission that shall call a special election as provided in (c)(2) above and such election shall be held in the same manner as the first election under this charter.

Section 8. Canvassing. The election returns of the Referendum shall be canvassed in the manner provided by law, and the returns shall be certified to the City Commission, which shall declare the result thereof. Upon canvassing the returns of the Referendum, the result of the Referendum shall be recorded in the minutes of the City Commission in the manner prescribed by law.

Section 9. Severability. If any section or portion of this Ordinance, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of the 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 10. Codification. The provision of this Ordinance, as set out in Section 7 of this Ordinance, shall become and be made part of the Charter of the City of Lake Worth Beach, Florida.

Section 11. Repeal of laws in conflict. All ordinances or parts of ordinances and resolutions or parts of resolutions of the City of Lake Worth Beach, Florida, that are in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 12. Effective date. This Ordinance shall become effective ten (10) days after passage.

The passage of this ordinance on first reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Herman Robinson
Commissioner Sarah Malega
Commissioner Christopher McVoy
Commissioner Kim Stokes

The Mayor thereupon declared this ordinance duly passed on first reading on the _____ day of _____, 2021.

The passage of this ordinance on second reading was moved by _____, seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch
Vice Mayor Herman Robinson
Commissioner Sarah Malega
Commissioner Christopher McVoy
Commissioner Kim Stokes

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2021.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk