

ORDINANCE NO. 2021-23 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 4 OF ARTICLE V OF THE CITY OF LAKE WORTH BEACH CHARTER SHALL BE AMENDED TO PROVIDE THAT THE CANDIDATE WHO RECEIVES A PLURALITY OF THE VOTES CAST AT AN ELECTION, EQUALING 40% OF THE VOTES CAST PLUS ONE VOTE OR MORE, WILL BE DECLARED TO BE DULY ELECTED; 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 V, Section 4 of the City's Charter currently provides that in an election, the candidate receiving a majority (50% plus 1 vote) of the votes cast at such election to fill such office will be declared to be duly elected, provided that in the event no candidate receives a majority of the votes, then a run-off election will be held; and

WHEREAS, with the risk of more elections resulting in costly run-off elections, the City desires to amend the Charter to allow for the candidate receiving a plurality of the votes cast to be declared duly elected as long as the plurality of the votes equals or exceeds 40% of the votes cast plus one (1) vote; 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 V, Section 4 of the Charter of the City of Lake Worth Beach be amended to provide that the candidate who receives a plurality of the votes cast at an election, which equals or exceeds forty percent (40%) of the votes cast plus one (1) vote, will be declared to be duly elected.

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 **“Plurality of Votes Required for Election of Candidate for 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 V, SECTION 4 TO PROVIDE THAT THE CANDIDATE WHO
RECEIVES A PLURALITY OF THE VOTES CAST AT AN ELECTION,
WHICH EQUALS OR EXCEEDS 40% OF THE VOTES CAST PLUS ONE
(1) VOTE, WILL BE DECLARED TO BE DULY ELECTED?**

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 V, Section 4 of the City Charter, then said Article and Section shall be amended to read as follows:

ARTICLE V. QUALIFICATIONS AND ELECTIONS

* * *

Sec. 4. – General, special and run-off elections.

Whenever a general or a special election is held to fill any elective office in the city, the candidate receiving a ~~majority~~plurality of the votes cast at such election to fill such office shall be declared to be duly elected provided that the plurality of votes equals or exceeds forty percent (40%) of the votes cast plus one (1) vote; ~~provided that in the event no candidate for a particular elective office shall receive a majority~~ plurality of the votes, as described above, cast at such election to fill such office, then a run-off election shall be held two (2) weeks after the original election to elect a candidate to fill such office; provided further that in such event only the names of the two (2) candidates having received the greatest number of votes in the election for such office shall be submitted to the electors and the one receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further, that should two (2) or more candidates receive an equal number of votes to any such office, so that it cannot be determined which two (2) had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the run-off election and the candidate receiving the greatest number of votes at such election shall be declared elected to such office, regardless of whether such candidate received a majority of the votes cast to fill such office at such run-off election.

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