

ORDINANCE NO. 2012 - 11

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2
3 AN ORDINANCE OF THE CITY OF HALLANDALE BEACH,
4 FLORIDA, PROVIDING FOR A REFERENDUM ELECTION TO
5 BE HELD ON NOVEMBER 6, 2012 TO DETERMINE WHETHER
6 TO AMEND THE CITY CHARTER, ARTICLE III. "CITY
7 COMMISSION", DIVISION 3 "VACANCIES", SECTION 3.09
8 VACANCIES; FORFEITURE OF OFFICE; FILLING OF
9 VACANCIES", TO DEEM A VACANCY EXISTS WHEN A
10 COMMISSIONER QUALIFIES FOR ANOTHER OFFICE
11 PURSUANT TO SECTION 99.012, FLORIDA STATUTES; TO
12 DELETE THE REFERENCE TO VIOLATIONS OF STANDARDS
13 OF CONDUCT OR CODE OF ETHICS AS A BASIS FOR
14 FORFEITURE OF OFFICE; TO CLARIFY THAT THE VICE
15 MAYOR SHALL SERVE AS ACTING MAYOR IN THE EVENT
16 OF A VACANCY IN THE OFFICE OF MAYOR; AND TO
17 CHANGE THE MANNER IN WHICH A VACANCY IN THE CITY
18 COMMISSION IS FILLED WHEN NO MAJORITY CAN BE
19 REACHED WITHIN THIRTY (30) DAYS OF THE VACANCY;
20 PROVIDING FOR THE VOTING SCHEDULE, PROVIDING FOR
21 REFERENDUM APPROVAL; PROVIDING FOR NOTICE;
22 PROVIDING FOR CONFLCIT; PROVIDING FOR
23 SEVERABILITY; PROVIDING FOR INCLUSION IN THE CITY
24 CODE; AND PROVIDING FOR AN EFFECTIVE DATE.
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26 WHEREAS, Section 166.031, Florida Statutes, provides the methods by which a
27 municipality may amend its charter; and

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29 WHEREAS, Section 166.031, provides that the governing body of a municipality may, by
30 ordinance, submit to the electors of such municipality proposed amendments of the Charter of
31 such municipality at an election held for that purpose; and

32
33 WHEREAS, the Charter Review Committee established pursuant to Section 2-121 of
34 the Hallandale Beach Code of Ordinances has recommended that Section 3.09(3) of the City
35 Charter be amended to clarify that in the event of a vacancy in the office of mayor, the Vice
36 Mayor shall serve as the Mayor until the position of Mayor is filled; and

37
38 WHEREAS, the City Commission has also recommended that Section 3.09(3) of the
39 City Charter be amended to provide that in the event the City Commission is unable to choose a
40 successor for a vacancy after thirty (30) days, that the successor shall be determined by lot; and
41

42 **WHEREAS**, the City Commission desires to avoid the costs associated with a special
43 election in those instance where a commissioner resigns his or her office to run for another
44 elective office; and

45
46 **WHEREAS**, the City Commission of the City of Hallandale Beach, Florida has met,
47 deliberated, and publicly conferred on the proposal contained herein to amend the City's
48 Charter; and

49
50 **WHEREAS**, the City Commission desires to submit the question of amending the City
51 Charter to a vote of the electorate at a referendum called for such purpose pursuant to Section
52 166.031, Florida Statutes.

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54 **NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF**
55 **HALLANDALE BEACH, FLORIDA:**

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57 **SECTION 1.** The City Commission hereby calls for and orders the holding of a
58 referendum election to be held at the same time of the General Election on November 6, 2012,
59 to determine whether the amendment to the City's Charter, appearing in Sections 1 and 2 of this
60 Ordinance, shall be approved by a majority of votes cast in such election. All qualified electors
61 of the City of Hallandale Beach shall be entitled and permitted to vote in the referendum. The
62 referendum election shall be held and conducted in the manner prescribed by law for all
63 elections.

64 It is proposed that the City Charter referred to below be amended to read, if approved by
65 the electorate, as follows:

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67 **3.09: - Vacancies; forfeiture of office; filling of vacancies.**
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69 (1) *Vacancies.* A vacancy in the city commission occurs when a commissioner
70 leaves office otherwise than before the normal expiration of his term of office.
71 The office of a commissioner shall become vacant upon his death, resignation,
72 removal from office in any manner authorized by law, or forfeiture of his office,
73 such forfeiture to be declared by the remaining members of the commission. In
74 the event a commissioner resigns in accordance with Section 99.012, Florida
75 Statutes, to run for another elective office, the office of that commissioner shall
76 be deemed vacant upon the date of his/her qualification for the other office, and
77 the remaining members of the commission shall fill the vacancy as provided in
78 section 3.09(3).

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80 (2) *Forfeiture of office.* A commissioner shall forfeit his office if he:

- 81 (a) Lacks at any time during his term of office any qualification for the office
 82 prescribed by this Charter or law;
- 83 (c)
- 84 (b) Is convicted of a crime involving moral turpitude; or
- 85 (c) Fails to attend three (3) consecutive months of regular meetings of the
 86 commission subject to and consistent with law.
- 87 (3) *Filling of vacancies.* A vacancy or vacancies in the city commission shall be filled
 88 as provided in the following.
- 89 (a) *Appointment.* Whenever there is a vacancy in the commission and there
 90 are less than twelve (12) months remaining before the next regular city or
 91 general election, the commission, by a majority vote of the remaining
 92 members, shall choose a successor to serve until that election. In the
 93 event of a vacancy in the office of mayor, the vice mayor shall serve as
 94 the acting mayor until the mayor's seat is filled. If a majority vote cannot
 95 be reached within thirty (30) days of the creation of the vacancy, then the
 96 vacancy shall be decided by lot.
- 97 (b) *Special elections.* If no regular city or general election is scheduled within
 98 twelve (12) months, the commission shall schedule a special election to
 99 fill the unexpired term held not sooner than sixty (60) days, nor more than
 100 ninety (90) days following the occurrence of the vacancy or vacancies. In
 101 any special election held for the purposes of this section, the provisions
 102 for nominations and elections contained in article IV of this Charter shall
 103 apply.
- 104 (c) *Term.* The term of office for vacancies filled by this section shall be for the
 105 remainder of the unexpired term of the office in which the vacancy exists.
- 106 (d) *Regular city election.* When, at a regular city election in addition to regular
 107 commission offices, it becomes necessary to fill a commission vacancy or
 108 vacancies which have occurred under the provisions of section 3.09(1),
 109 candidates shall be elected according to the provisions of article IV of this
 110 Charter.
- 111 (e) *Quorum requirement.* Notwithstanding any quorum requirement
 112 established herein, if at any time the membership of the commission is
 113 reduced to less than a quorum, the remaining members may, by majority
 114 vote, appoint additional members under (a) above.
- 115 (4) *Extraordinary vacancies.* In the event that all members of the commission are
 116 removed by death, disability, or forfeiture of office, the governor shall appoint an
 117 interim commission that shall call a special election as provided in (3) (b) above
 118 and such election shall be conducted to fill the specific vacancies in the manner
 119 provided for under the regular election procedures of this city.
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121 **SECTION 2. Form of Ballot.** The form of the ballot for the Charter amendment provided

122 for herein shall be as follows:

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124 **FILLING VACANCIES AND DELETING GROUND FOR FORFEITURE OF OFFICE**

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126 Shall Section 3.09 of the City Charter be amended to deem a vacancy occurs when a
 127 commissioner resigns to run for another office; to delete a ground of forfeiture of office;
 128 to provide that the vice mayor serve as acting mayor when the mayor's office is vacant;

129 and to permit the city commission to choose a successor by lot if unable to appoint a
130 replacement within thirty (30) days of the vacancy?

131 _____ Yes, for approval

132 _____ No, for rejection

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135 **SECTION 3. Voting Schedule.** Voting shall take place between the hours of 7:00 a.m.
136 and 7:00 p.m. at the locations to be designated as provided by law.

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138 **SECTION 4. Notice.** The City Clerk of the City of Hallandale Beach is hereby authorized
139 and directed to advertise the referendum election contemplated herein and to take all
140 appropriate actions necessary to carry out the provisions of this Ordinance.

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142 **SECTION 5. Conflict.** All ordinances or parts of ordinances, all City Code sections or
143 parts of City Code Sections, and all resolutions or parts of resolutions in conflict with this
144 Ordinance are hereby repealed to the extent of such conflict.

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146 **SECTION 6. Severability.** Should any provision of this Ordinance be declared by a
147 court of competent jurisdiction to be invalid, such decision shall not affect the validity of this
148 Ordinance as a whole or any portion thereof, other than the part so declared to be invalid.

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150 **SECTION 7. Inclusion in City Charter.** Upon approval by a majority of electors voting
151 in the referendum election, the Charter amendment contained in Section 1 of this Ordinance
152 shall be deemed immediately adopted and incorporated into the City Charter. Following
153 adoption, the City Clerk shall organize by subject matter and file the revised Charter with the
154 Florida Department of State, as required by Section 166.031(2), Florida Statutes.

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156 **SECTION 8.** The Broward County Supervisor of Elections is requested to canvass the
157 ballots and certify same, and in turn, certify the election results to the Hallandale Beach City
158 Clerk. The City Clerk shall declare the results thereof, and such returns shall be recorded in the
159 minutes of the City Commission at the first meeting after certification.

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161 **SECTION 9.** This Ordinance shall take effect immediately upon adoption.

162 PASSED AND ADOPTED on 1st reading on April 18, 2012.

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164 PASSED AND ADOPTED on 2nd reading on May 2, 2012.


MAYOR-COMMISSIONER

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ATTEST:


CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
FORM


V. LYNN WHITFIELD
CITY ATTORNEY

VOTE	
AYE/NAY	
Mayor Cooper	<input checked="" type="checkbox"/> / <input type="checkbox"/>
Vice Mayor Sanders	<input checked="" type="checkbox"/> / <input type="checkbox"/>
Comm. Lewy	<input checked="" type="checkbox"/> / <input type="checkbox"/>
Comm. London	ABSENT
Comm. Ross	<input checked="" type="checkbox"/> / <input type="checkbox"/>