

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CITY CHARTER OF THE CITY, SUBJECT TO VOTER APPROVAL, AT SEC. 2.04 "PROHIBITION OF INTERFERENCE BY CITY COMMISSIONERS WITH APPOINTMENTS AND REMOVALS" TO PROVIDE THAT THE CITY COMMISSION MAY REASONABLY SUMMON A DEPARTMENT HEAD TO APPEAR BEFORE THE CITY COMMISSION; AT SEC. 6.08 " SUBMISSION TO ELECTORS" TO ALLOW THE NINETY DAY PERIOD TO BE EXTENDED UP TO THIRTY DAYS IF A REGULAR OR SPECIAL ELECTION IS ALREADY SCHEDULED; AND, GENERALLY, TO AMEND ALL SECTIONS OF THE CHARTER FOR STYLE, GRAMMAR AND CONSISTENCY PURPOSES; PROVIDING A MUNICIPAL ELECTION TO BE HELD ON MARCH 13, 2012 TO APPROVE OR REJECT THE PROPOSED AMENDMENTS TO THE CITY CHARTER; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The City Charter of the City of West Palm Beach, Florida (the "City"), as amended, is hereby amended at Sec. 2.04 as follows:

Sec. 2.04. Prohibition of interference by City Commissioners with appointments and removals.

Except as ~~otherwise provided herein~~ for ratifications permitted in section 2.09 of this article, the ~~c~~City ~~c~~Commissioners collectively and individually shall not direct or request the appointment of any person to office or such person's removal ~~therefrom~~ by the ~~m~~Mayor or by any subordinate or shall in any manner take part in the appointment or removal of appointive officers and employees in the administrative service of the city. Except for the purpose of an inquiry ~~hereunder~~, the ~~c~~City ~~c~~Commissioners collectively and individually shall deal with administrative matters solely through the ~~m~~Mayor or ~~m~~Mayor's designee, and ~~neither the City Commission nor any City Commissioner shall not, collectively or individually~~ give orders to any subordinates of the ~~m~~Mayor

either publicly or privately. This provision is not intended to prevent any city commissioner from directly seeking legal advice from the city attorney. A department head may be reasonably summoned by the city commission to appear before the city commission to provide information and to answer questions at a public meeting.

Any violation of this section by a City Commissioner shall constitute misconduct punishable by the City Commission and also grounds for removal as provided in section 2.07 from office by the City Commission as provided hereby and for removal by recall.

SECTION 2: The City Charter of the City of West Palm Beach, Florida (the "City"), as amended, is hereby amended at Sec. 6.08 as follows:

Sec. 6.08. Submission to electors.

If the City Commission fails to pass an ordinance proposed by initiative petition or passes it in a form different from that set forth in the petition, or if the City Commission fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors in its original form not less than thirty (30) days nor more than ninety (90) days after final vote ~~thereon~~ by the City Commission. The City Commission may provide for a special election, ~~and it shall so provide~~ if no regular election is to be held within this period. The ninety days may be extended for up to thirty days if a regular or special election is already scheduled within one hundred and twenty (120) days from the final vote.

SECTION 3: The City Charter of the City of West Palm Beach, Florida (the "City"), as amended, is hereby amended in all sections for style, grammar and consistency purposes. The proposed changes are shown on Exhibit 1 to this ordinance. The changes shown in Exhibit 1 that are the subject of separate ballot questions will only be made if the specific ballot question is approved by the voters.

SECTION 4: The amendments contained in Section 1, 2 and 3 of this Ordinance shall be effective and operative on March 23, 2012, provided such amendments have been approved by the electorate of the City of West Palm Beach, Florida, voting in a referendum at a municipal election to be held on March 13, 2012 on the questions of the approval or disapproval of the proposed amendments set forth in Section 1 of this Ordinance.

The form of the questions on the ballot in the March 13, 2012 municipal election shall be as follows:

As to Sec. 2.04:

BALLOT QUESTION

ALLOWING THE CITY COMMISSION TO REASONABLY SUMMON A DEPARTMENT HEAD TO APPEAR BEFORE THE CITY COMMISSION.

The mayor directs department heads and employees without interference from the city commissioners. Shall the Charter of the City of West Palm Beach, Florida be amended to allow a department head to be reasonably summoned by the city commission to appear before the city commission to provide information and to answer questions at a public meeting?

Yes _____
No _____

As to Sec. 6.08:

BALLOT QUESTION

ALLOWING THE ELECTION PERIOD FOR AN INITIATIVE OR REFERENDUM PETITION TO BE EXTENDED BY UP TO THIRTY DAYS IF AN ELECTION IS ALREADY SCHEDULED WITHIN 120 DAYS.

A special election is required to be held within 90 days if an initiative or referendum ordinance that is submitted for voter approval. To avoid the cost of a special election, shall the Charter of the City of West Palm Beach be amended to allow the 90 day period to be extended by 30 days if an election is already scheduled within 120 days?

Yes _____
No _____

As to the Charter generally:

BALLOT QUESTION

AMENDING THE CHARTER FOR STYLE, GRAMMAR AND CONSISTENCY PURPOSES ONLY.

The Charter contains numerous provisions that contain style, grammar and consistency errors. Shall the Charter of the City of West Palm Beach be amended to change any provision that contains such style, grammar or consistency error?

Yes _____
No _____

SECTION 5: This ordinance shall become effective in accordance with law.

FIRST READING THIS 14th DAY OF November, 2011.

SECOND READING THIS 28th DAY OF November, 2011.

(CORPORATE SEAL)

CITY OF WEST PALM BEACH
BY ITS CITY COMMISSION

Seraldine Moore
PRESIDING OFFICER

ATTEST:

[Signature]
CITY CLERK

City Attorney's Office
Approved as to form
and legal sufficiency
By: [Signature]

EXHIBIT 1



CHARTER FOR THE CITY OF WEST PALM BEACH, FLORIDA

ARTICLE I. - CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWER

- Sec. 1.01 - Corporate existence; form of government; Charter.
- Sec. 1.02 - Description of corporate boundary.
- Sec. 1.03 - General powers of the City.
- Sec. 1.04 - Construction.

Sec. 1.01. - Corporate existence; form of government; Charter.

The City of West Palm Beach in Palm Beach County, Florida, which was created by the Florida Legislature, shall continue as a municipal corporation with a mMayor-cCommission form of government as provided herein and with this document as the cCharter for the cCity.

Sec. 1.02. - Description of corporate boundary.

The area described in Appendix A of this Charter and as amended by the city commission through annexation and contraction from time to time shall constitute the corporate boundary of the cCity of West Palm Beach.

Sec. 1.03. - General powers of the City.

The cCity shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law or this cCharter.

Sec. 1.04. - Construction.

The powers of the city shall be construed liberally in favor of the cCity, limited only by the United States and State of Florida constitutions, general and special law, and specific limitations in this cCharter.

ARTICLE II. - LEGISLATIVE

- Sec. 2.01. - City Commission; district boundaries established for residency to qualify for candidacy; reappointment.
- Sec. 2.02. - Term and compensation.
- Sec. 2.03. - Powers of the City Commission.
- Sec.2.04. - Prohibition of interference by City Commissioners with appointments and removals.
- Sec. 2.05. - Induction and meetings.
- Sec. 2.06. - Vacancy in City Commission.
- Sec. 2.07. - Removal and suspensions from office of City Commissioner.
- Sec. 2.08. - Investigations.
- Sec. 2.09. - Appointment and removal of Chief of Police, Fire Chief and City Attorney.

Sec. 2.01. - City Commission; district boundaries established for residency to qualify for candidacy; reappointment.

The cCity cCommission shall consist of five (5) cCity cCommissioners and a mMayor who are elected at-large on a nonpartisan basis. Each cCity cCommissioner shall be a qualified elector of the cCity and shall be a resident of the district from which he or she is elected. The mMayor shall be a qualified elector of the cCity and may reside in any district within the cCity of West Palm Beach. City cCommissioners and the mMayor shall be elected by a cCitywide vote. The boundary for each of the five (5) districts for the office of cCity cCommissioner is described in Appendix B of this Charter. The district boundaries may change by annexation, contraction and reapportionment in accordance with this charter.

A candidate for the office of mMayor shall have continuously resided in the city during the six-month period immediately prior to the date of election. A candidate for the office of cCity cCommissioner shall have continuously resided during the six-month period immediately prior to the date of election in the respective district from which the candidate seeks to qualify for election, ~~except for the regular election to be held in March 1995. However, any candidate for office of City Commissioner in the regular election for March 1995 shall be a resident of the district at the time of qualifying for office.~~ The city commission by ordinance may provide for evidence acceptable to establish domicile or legal residence.

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~~At the regular election held in 1998, the City Commissioners qualified in Districts 1, 3 and 5 shall be elected for a term of two (2) years. At the regular election held in 1999, the City Commissioners qualified in Districts 2 and 4 shall be elected for a term of two (2) years.~~

The mMayor shall reside continuously in the cCity during the mMayor's term of office. Each cCity cCommissioner shall reside continuously during the cCommissioner's term of office in the district from which the cCommissioner was elected.

The district boundaries shall be reapportioned every ten (10) years ~~commencing with the 1990 based upon the o~~Official Florida State and Federal Census. ~~Each reapportionment shall be completed by T~~the cCity cCommission by shall adopt an ordinance containing the reapportionment enacted within six (6) months of the date of official publication of the most recent oOfficial Florida State and Federal Census.

District boundaries shall be reapportioned to create districts of nearly equal population. Districts shall be arranged in a logical and compact geographic pattern and shall promote fair representation. Service boundaries of public facilities shall be considered.

Sec. 2.02. - Term and compensation.

The term of office of the mMayor shall be four (4) years. No individual shall be elected to the office of the mMayor for more than two (2) consecutive full terms.

The term of office of the cCity cCommissioners shall be ~~two (2)~~ three (3) years. Commissioner terms shall be staggered. The terms for commissioners qualified in districts 1, 3 and 5 shall expire in the same year. The terms for commissioners qualified in districts 2 and 4 shall expire in the same year.

The annual salaries of the mMayor and the cCity cCommissioners shall be fixed by ordinance. These salaries shall be reviewed during the cCity's annual budget process.

Sec. 2.03. - Powers of the City Commission.

All powers of the cCity shall be vested in the cCity cCommission except those powers specifically given to the mMayor, and to the internal auditor ~~as provided in this Charter and except those powers specifically~~ and reserved ~~in this Charter~~ to the electors of the cCity in this charter.

Sec. 2.04. - Prohibition of interference by City Commissioners with appointments and removals.

~~Except as otherwise provided herein for ratifications permitted in section 2.09 of this article, the~~ cCity cCommissioners collectively and individually shall not direct or request the appointment of any person to office or such person's removal ~~therefrom~~ by the mMayor or by any subordinate or shall in any manner take part in the appointment or removal of appointive officers and employees in the administrative service of the city. Except for the purpose of an inquiry ~~hereunder~~, the cCity cCommissioners collectively and individually shall deal with administrative matters solely through the mMayor or mMayor's designee, and ~~neither the City Commission nor~~

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~~any City Commissioner shall not, collectively or individually~~ give orders to any subordinates of the ~~m~~Mayor either publicly or privately. This provision is not intended to prevent any city commissioner from directly seeking legal advice from the city attorney. A department head may be reasonably summoned by the city commission to appear before the city commission to provide information and to answer questions at a public meeting.

Any violation of this section by a ~~c~~City ~~c~~Commissioner shall constitute misconduct punishable by the ~~c~~City ~~c~~Commission and ~~also grounds for removal as provided in section 2.07 from office by the City Commission as provided hereby and for removal by recall.~~

Sec. 2.05. - Induction and meetings.

After each annual city election, the ~~City Commission shall meet and the~~ newly elected members shall be inducted and assume office at a public meeting as provided hereby. At such meeting, the ~~c~~City ~~c~~Commissioners shall elect one (1) of their number to the office of the ~~p~~President of the ~~c~~City ~~c~~Commission who shall serve at the pleasure of the ~~c~~City ~~c~~Commission.

The ~~m~~Mayor shall preside at all meetings of the ~~c~~City ~~c~~Commission and be the ceremonial head of the city government. In the absence or disability of the ~~m~~Mayor, the ~~p~~President shall preside at ~~c~~City ~~c~~Commission meetings and perform the ceremonial and ministerial functions of the office of ~~m~~Mayor. In the absence of both the ~~m~~Mayor and the ~~p~~President, the ~~c~~City ~~c~~Commissioners shall designate one of their number to chair ~~c~~City ~~c~~Commission meetings and perform the ceremonial and ministerial functions of the office of mayor.

During the temporary disability of the ~~m~~Mayor, the ~~p~~President of the ~~c~~City ~~c~~Commission shall become the acting ~~m~~Mayor. If it shall be necessary for the ~~p~~President to discharge the duties of the ~~m~~Mayor more than thirty (30) consecutive days, at the discretion of the ~~c~~City ~~c~~Commission, the ~~p~~President may be compensated for such duties.

The ~~c~~City ~~c~~Commission shall fix the dates of all its ~~other~~ regular meetings, ~~and shall hold s~~Special meetings shall be held at the call of the ~~m~~Mayor, the acting ~~m~~Mayor, or any other two (2) ~~c~~City ~~c~~Commissioners. All official meetings shall be held at the ~~c~~City ~~h~~Hall when practicable and shall be open to the public.

The ~~c~~City ~~c~~Commission shall adopt its own rules of procedure ~~not inconsistent herewith this charter and shall maintain in its journal~~ a record of the vote of each member on each matter submitted to a vote. Each member of the ~~c~~City ~~c~~Commission shall vote on each matter submitted to a vote ~~unless it involves such member's official conduct or financial interest~~ such vote is prohibited by federal, state or local law.

Sec. 2.06. - Vacancy in on City Commission.

A vacancy shall occur on the ~~c~~City ~~c~~Commission upon death, resignation, removal or recall of a member, or in the event a member shall fail to maintain the qualifications of office including residency and status as a qualified elector of the ~~c~~City. A successor appointed or elected to the office vacated shall be a qualified elector of the city, and in the case of the office of city commissioner, shall be a resident of the district in which the vacancy occurs. If a vacancy occurs ~~in the office of on the c~~City ~~c~~Commissioner for any reason, except as the result of a recall

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whereby a successor is appointed or elected, or resignation required to run for office by the Florida Statutes, the remaining members of the cCity cCommission shall, within thirty (30) days of the creation of the vacancy and by a majority of a quorum, appoint a successor to fill the office vacated. ~~Provided, the successor so appointed to the office vacated shall be a resident of the district and a qualified elector of the City.~~

In the event of an appointment to the office of mMayor; said appointment shall not exceed ninety (90) days during which either the next general municipal election or a special city election, if necessary, shall be held to elect a mMayor for the unexpired term. The appointment period may exceed ninety (90) days by the number of days needed to avoid a special election between November and March.

In the event of an appointment to the office of cCity cCommissioner, ~~said such~~ such appointment shall be effective ~~until the expiration of the term of such office or until the next general municipal election, whichever shall first occur.~~ At the next general municipal election, a successor shall be elected for the balance of the term vacated or a full term or for the balance of the term vacated, as appropriate.

A vacancy on the city commission created by a resignation required by 99.012, F.S. to run for another office, which resignation has an effective date between December 1 and March 31, shall be filled by election of a qualified candidate at a municipal election in March that occurs prior to the effective date of the resignation.

Sec. 2.07.- Removal and suspensions from office of City Commissioner.

The mMayor and cCity cCommissioners, ~~may be in addition to being removed by recall pursuant to law or by , may be removed from office by resolution of the cCity cCommission unanimously adopted by the other members of the cCity cCommission for any of the grounds for removal set forth in F.S. § 100.361, F.S. Written charges specifying the ground(s) for removal shall first be served upon said member and shall include notice of the date of the city commission meeting at which a hearing on the charges will be held. with notice that the removal shall not take effect until a hearing, if requested by the member charged, is held by the City Commission to determine the truth of the charges. Such hearing shall be held within twenty (20) days of the date of service of the charges. at a regular City Commission meeting. Removal shall be determined by unanimous resolution adopted by the other members of the city commission.~~

The term "neglect of duty," as used in F.S. § 100.361, F.S. aforesaid, shall include but not be limited to six (6) consecutive absences from regular cCity cCommission meetings. After six (6) such absences, the matter shall be placed on the agenda for consideration by the cCity cCommission. A majority of the cCity cCommission may determine that said absences are excusable and that the charge of "neglect of duty" shall not be made.

Sec. 2.08. - Investigations.

In the exercise of its legislative powers the cCity cCommission shall have the power to conduct such investigations and hold such hearings as the commission shall deem necessary, expedient, and proper and shall have the power to subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of

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evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the cCity cCommission shall apply to the appropriate court. The findings shall be reported to the mMayor and to the public by the pPresident of the cCommission.

Sec. 2.09. - Appointment and removal of Chief of Police, Fire Chief and City Attorney.

The cChiefs of the pPolice dDepartment and the fFire rescue dDepartment and the cCity aAttorney shall be appointed by the mMayor subject to the ratification of the cCity cCommission acting by three (3) affirmative votes. The mMayor shall have the power to remove said such department heads without the consent of the cCommission.

ARTICLE III. - EXECUTIVE

- Sec. 3.01. - Mayor.
- Sec. 3.02. - Mayor's veto power.
- Sec. 3.03. - City Administrator—Appointment, removal and qualifications.
- Sec. 3.04. - Department directors—Appointment and removal.
- Sec. 3.05. - Bond required of certain city officials.

Sec. 3.01. - Mayor.

The chief executive officer and administrative head of the cCity shall be the mMayor who shall be responsible for the proper administration and conduct of the executive work and affairs of the cCity. The mayor shall be a voting member of the cCity cCommission, only for the purpose of breaking a tie vote. The mayor shall be recognized by the courts for the purpose of serving civil process and by the gGovernor for purposes of military law. The mayor may, with the consent of the cCity cCommission, take command of the police in case of public danger or emergency. and The mayor shall, when directed to do so by the cCity cCommission, execute all instruments to which the cCity is a party, unless otherwise provided herein in this charter or by ordinance.

The mMayor shall maintain an office in cCity hHall and shall devote full time to the duties of that office. Except as specifically otherwise provided in this cCharter, the powers and duties of the mMayor shall be to:

- (1) pPromote and encourage improvement of cCity government, encourage the economic growth of the cCity, and promote and develop the prosperity and social well-being of its people;
- (2) eEnforce the provisions of this cCharter, cCity ordinances, and all applicable laws;
- (3) dDirect and supervise the administration of all departments, divisions and agencies of the cCity government, except as otherwise provided by this cCharter or by law;
- (4) aAppoint and remove the mMayor's staff who shall have such duties as the mMayor shall determine;

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(5) ~~a~~Appoint and remove the members of boards, committees and commissions, ~~as provided herein, by ordinance or by law except as required by state law to be made by the city commission as the governing body of the city;~~

(6) ~~p~~Prepare the budget annually and submit it to the cCity cCommission for approval and to be responsible for its administration after adoption;

(7) ~~r~~Recommend to the cCity cCommission the pay scales for the cCity offices and employment for the ensuing fiscal year;

(8) ~~f~~Fix the salaries and wages of officers and employees of the cCity within the applicable scales established by the cCity cCommission;

(9) ~~p~~Prepare and submit to the cCity cCommission, promptly after and as of the end of each fiscal year, a complete report on the finances and administrative activities of the cCity for that year;

(10) ~~k~~Keep the cCity cCommission advised, in a timely manner, of the financial condition and of the future financial, administrative, and other needs of the cCity, and to make recommendations relative thereto;

(11) ~~Make~~ timely provide such other ~~reports~~ information as the cCity cCommission may collectively or individually reasonably require concerning the operations of city departments, offices and agencies that are subject to the mMayor's direction and supervision;

(12) ~~p~~Promulgate by executive order such administrative directives and decisions, as deemed necessary and proper, all of which executive orders of a formal, general and permanent nature shall be filed with the cCity cClerk;

(13) ~~p~~Prepare the agenda for cCity cCommission meetings;

(14) ~~i~~Initiate investigations within the cCity ~~of West Palm Beach~~ and ~~shall~~ present the findings to the cCity cCommission.

Sec. 3.02. - Mayor's veto power.

The mMayor shall have the power to veto legislation within forty-eight (48) hours after the adjournment of any cCity cCommission meeting. Ordinances or resolutions vetoed by the mMayor shall be considered by the cCity cCommission at its next regularly scheduled meeting, and at that meeting the cCity cCommission may pass the ordinance or resolution over the mMayor's veto by a ~~two-thirds majority~~ four votes of the ~~entire~~ cCommission. The effective date of an ordinance passed over the mMayor's veto shall not be less than fifteen (15) days after the final passage, which shall be considered to be the date on which the cCity cCommission originally passed the ordinance or resolution and it shall then become law ~~notwithstanding the objections of the Mayor.~~

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Within forty-eight (48) hours of the adoption of an ordinance or resolution appropriating money for the use of cCity government, the mMayor may disapprove all or a portion of an appropriation. Any appropriations disapproved or reduced shall be void to such disapproval or reduction unless restored to the ordinance or resolution by ~~a two-thirds majority~~ four votes of the ~~entire~~ cCity cCommission at its next regularly scheduled meeting.

The mMayor shall not have the power to veto emergency ordinances or any enactments relating to ~~the~~ emergency appropriations or emergency borrowing.

Sec. 3.03. - City Administrator—Appointment, removal and qualifications.

The mayor shall appoint a cCity officer with the title cCity aAdministrator. Such officer shall be chosen solely on the basis of executive and administrative qualifications and be subject to the immediate supervision of the mMayor. The cCity aAdministrator shall coordinate under the supervision of the mMayor the activities of all administrative departments, divisions, and agencies, serve as special liaison between the mMayor, the cCity cCommission and all departments, divisions, boards and commissions, and perform such administrative and executive duties as may from time to time be assigned by the mMayor. ~~and~~ The city administrator may be dismissed by the mMayor, without the approval of the cCity cCommission. The salary of the cCity aAdministrator shall be set by the cCity cCommission upon the recommendation of the mMayor.

No cCity cCommissioner shall be eligible for appointment as cCity aAdministrator during the term for which elected and until two (2) years after its expiration. When appointed, the cCity aAdministrator need not be a resident of the cCity, but during tenure of office the cCity aAdministrator shall reside within the cCity.

Sec. 3.04. - Department directors—Appointment and removal.

Except as otherwise ~~specified herein provided in sec. 2.09~~, the mayor shall appoint and remove all department directors without consent and approval of the cCity cCommission. As used in the article, "director" means the administrative head of each department regardless of the title of a particular director.

Sec. 3.05. - Bond required of certain city officials.

The dDirector of fFinance and the cCash mManagement cCoordinator, and such other officers and employees of the cCity as shall be designated by the cCity cCommission, shall give bond in such amount and in such corporate surety authorized to do business in Florida as the cCity cCommission shall approve. The cCity shall pay the premiums of such bonds.

ARTICLE IV. - BUDGET AND FINANCE

- Sec. 4.01. - Budget.
- Sec. 4.02. - Establishment of appropriations and of amount of property tax.
- Sec. 4.03. - Transfer and lapse of appropriations.

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- Sec. 4.04. - Procurement.
- Sec. 4.05. - Internal auditor.

Sec. 4.01. - Budget.

In accordance with Florida law, the cCity cCommission shall adopt ~~an annual~~ its budget by resolution which shall constitute appropriations of the amounts specified as expenditures from the funds indicated and shall constitute a levy of the property tax proposed.

The revenues identified by the mMayor in the proposed budget shall include those funds existing at the end of the preceding fiscal year designated as "ending fund balance." Ending fund balance shall include revenue receipts becoming available from the preceding fiscal year:

- (1) ~~bBy~~ the lapsing of unencumbered appropriation balances;
- (2) ~~fFrom~~ unanticipated miscellaneous revenues;
- (3) ~~fFrom~~ anticipated miscellaneous revenues of the preceding fiscal year in excess of the estimates budgeted therefor; and
- (4) ~~fFrom~~ adjustments of inventories and reserves.

Sec. 4.02. - Establishment of appropriations and of amount of property tax.

~~From the effective date of the budget,~~ For each fiscal year, the several amounts ~~stated therein~~ identified in the budget as proposed expenditures shall be appropriated to the several named objectives and purposes ~~therein named~~. The amount to be raised by property tax for the purposes ~~stated therein~~ in the budget shall constitute a determination of the total amount of this levy for cCity purposes in the ensuing tax year.

Sec. 4.03. - Transfer and lapse of appropriations.

The mMayor may at any time direct the transfer of any unencumbered appropriation balance or portion ~~thereof~~ of such balance among general classifications of expenditures within an agency. At the request of the mMayor, the cCity cCommission may within any fiscal year transfer any unencumbered appropriation balance or portion ~~thereof~~ of such balance from one agency to another, provided, no transfer shall be made from the appropriations that are ~~contrary to~~ not permitted by Florida law. Unbudgeted revenue and budget revenue classified as contingent may be appropriated by the cCity cCommission at any time, provided amounts of more than five hundred dollars (\$500.00) shall be appropriated by resolution.

All appropriations shall lapse at the end of the fiscal year to the extent not validly expended or encumbered; provided, however, for enterprise funds all encumbrances outstanding at September 30 shall be computed, and the budget for the ensuing year increased by budget carry-over, to cover the encumbrances with the excess of revenues over expenditures from the prior budget. Unanticipated revenue from a nonrecurring source ~~of~~ or transaction may not lapse into surplus

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but may be appropriated during the fiscal year of receipt of or any following fiscal year thereafter.

Sec. 4.04. - Procurement.

Contracts for the procurement of supplies, services and construction by the cCity shall be made through fair and open competition using competitive bids, requests for proposals, requests for quotations and other practices which will result in the award of contracts equitably and economically. The cCity cCommission shall establish a system of uniform procedures in managing and procuring contractual supplies, services and construction.

The cCity shall make all lawful and reasonable effort to utilize local businesses, and businesses owned by women or by minorities, for procurement; provided, however, contracts shall always be awarded in the best interests of the cCity.

Sec. 4.05. - Internal auditor.

~~There is hereby created the position of Internal Auditor.~~ The city commission shall appoint a city officer with the title of internal auditor. The iInternal aAuditor shall conduct, or cause to be conducted, financial, compliance, and expanded scope audits following generally accepted government auditing standards. The iInternal aAuditor shall have access to all records and personnel.

The iInternal aAuditor shall be appointed by the cCity cCommission. Removal from office must be for cause by a majority vote of the entire membership of the cCity cCommission (three affirmative votes).

To ensure independence of the audit function and to coordinate internal audit work with the needs of the mMayor and the cCity cCommission, an aAudit cCommittee is hereby established. The aAudit cCommittee is a management committee and not a public board, commission or committee as specified in Article III, Section 3.01(5) ~~hereinabove~~. The aAudit cCommittee shall be comprised of five (5) voting members; the mMayor or designee, the pPresident of the cCity cCommission and three (3) at-large members who shall be appointed by the cCity cCommission. The at-large members shall be cCity residents with expertise in auditing preferably internal or management auditing and at least two (2) of whom shall be a cCertified pPublic aAccountant or a cCertified iInternal aAuditor; appointments shall be staggered for terms of three (3) years. The pPresident of the cCommission shall be appointed as cChairperson of the aAudit cCommittee. The aAudit cCommittee shall perform an evaluation of the iInternal aAuditor annually and present such to the cCity cCommission.

ARTICLE V. – ELECTIONS

- Sec. 5.01. - Electors.
- Sec. 5.02. - Nonpartisan elections.
- Sec. 5.03. - Qualifying.

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- Sec. 5.04. - Form of ballots.
- Sec. 5.05. - Notice of elections.
- Sec. 5.06. - Conduct of elections.

Sec. 5.01. - Electors.

Any person who: (1) is a resident of the cCity of West Palm Beach; (2) who has qualified as an elector of the State of Florida; and, (3) who registers in the manner prescribed by law, shall be an elector of the cCity.

Sec. 5.02. - Nonpartisan elections.

All elections for the offices of mMayor and cCity cCommissioner shall be conducted on a nonpartisan basis without any designation or political party affiliation.

Sec. 5.03. - Qualifying.

Candidates for the offices of mMayor and cCity cCommissioner shall qualify by filing a written notice of candidacy with the cCity cClerk at such a time and in such manner as may be prescribed by ordinance.

Sec. 5.04. - Form of ballots.

Ballots shall follow substantially the form used in state general elections but shall bear no mark or other designation of affiliation of any candidate with any political party or other association or organization. Any ~~mechanical~~ voting device approved for use in state elections may be used in cCity elections, but adequate means shall be provided for writing in, as to each office on the ballot, the name of a person not listed and for casting a vote for that person.

The cCity cCommission shall prescribe the form of the ballot by ordinance including the method of listing candidates for mayor and cCity cCommission elections.

Sec. 5.05. - Notice of elections.

The regular election of City Commission shall be held on the ~~second Tuesday in March~~ first Tuesday after the first Monday in November by cCitywide vote of the cCity electors.

The entire electorate of the cCity shall be entitled to vote in elections for mMayor and city commission.

The candidate for the offices of mMayor and cCity cCommissioner receiving the highest number of votes exceeding forty percent (40%) ~~a majority~~ of the votes validly cast shall be declared elected. If, in any election, no candidate receives forty percent (40%) ~~this majority~~ in the first election, a second election, limited to the two (2) candidates for mMayor or cCity

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cCommissioner receiving ~~respectfully~~ respectively the highest and the next highest number of votes in the first election, shall be held on the fourteenth (14) day after the first election, and the candidate receiving the higher number of votes in the second election shall be declared elected.

Special municipal elections and referenda shall be held in the same manner as the regular cCity election except that the cCity cCommission, by ordinance, shall fix the time of holding such special elections and referenda.

Sec. 5.06. - Conduct of elections.

The cCity cCommission shall by ordinance make all regulations not inconsistent ~~herewith~~ with this charter or with the principles governing state elections which it deems necessary or desirable for calling or conducting cCity elections.

ARTICLE VI. - INITIATIVE AND REFERENDUM

- Sec. 6.01. - Power of initiative.
- Sec. 6.02. - Power of referendum.
- Sec. 6.03. - Form of petition.
- Sec. 6.04. - Filing, examination, and certification of petitions.
- Sec. 6.05. - Amendment of petitions.
- Sec. 6.06. - Effect of certification of referendum petition.
- Sec. 6.07. - Consideration by City Commission.
- Sec. 6.08. - Submission to electors.
- Sec. 6.09. - Form of ballot for initiated and referred ordinances.
- Sec. 6.10. - Results of election.
- Sec. 6.11. - Publication, repeal, and amendment.

Sec. 6.01. - Power of initiative.

The electors may propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and may adopt or reject it at the polls. This power shall be known as the initiative. Any initiated ordinance may be submitted to the cCity cCommission by petition signed by at least five (5) percent of the cCity electors as shown by the current voter registration lists.

Sec. 6.02. - Power of referendum.

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Except as otherwise provided by law for issuance of cCity bonds, the electors may approve or reject any ordinance or legislative resolution at the polls in the manner provided in this article, including ordinances brought before the cCity cCommission by initiative petition and passed by it without change, regardless of whether the ordinance is submitted to vote of the electors by the cCity cCommission on its own motion or pursuant to petition and may adopt or reject it at the polls. This power shall be exercised as provided in this article and shall be known as the referendum. Within thirty (30) days after the enactment of an ordinance, or within forty-five (45) days after the enactment of a legislative resolution, a petition signed by at least five (5) percent of the cCity electors as shown by the current voter registration lists may be filed with the cCity cClerk requesting that the ordinance or legislative resolution be either repealed or submitted to vote of the electors. Administrative resolutions are not subject to referendum.

Sec. 6.03. - Form of petition.

All petition papers circulated for the purpose of initiative or referendum shall be uniform in size and style, and all initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one (1) paper, but to each separate petition paper shall be attached a statement of the circulator thereof as provided by this section. Each signer shall sign his or her name in ink or indelible pencil and shall list his or her full residence address. Each petition paper shall contain the names and addresses of five (5) electors, ~~who shall be the same on each petition paper~~, shall be regarded as the petition committee, who shall be the same on each petition paper and shall be responsible for the circulation and filing of the petition. Attached to each separate petition paper shall be an affidavit of its circulator that the circulator alone personally circulated that paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in the presence of the circulator, and that the circulator believes them to be the genuine signatures of the persons whose names they purport to be.

Sec. 6.04. - Filing, examination, and certification of petitions.

All petition papers comprising an initiative or referendum petition shall be assembled and filed with the cCity cClerk as one (1) instrument. Within twenty (20) days after a petition is filed, the cCity cClerk shall determine whether each petition paper has a proper statement of the circulator and whether the petition as a whole has been signed by a sufficient percentage of the cCity electors. The cCity cClerk shall declare invalid any petition paper lacking an affidavit of the circulator thereof as prescribed in this article. If a paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. If a petition is found to be signed by fewer persons than the number certified, the signatures appearing ~~thereon~~ on the petition shall be accepted unless void on other grounds. After examining the petition, the cCity cClerk shall certify the result to the City Commission at its next regular meeting. If the cCity cClerk certified that the petition is insufficient, the City Clerk shall set forth in the certificate the particulars in which it is defective and shall ~~forthwith~~ immediately notify the petition committee of this finding by personal delivery or by registered mail.

Sec. 6.05. - Amendment of petitions.

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At any time within ten (10) days after the cCity cClerk sends notification of insufficiency of an initiative or referendum petition, it may be amended by filing a supplementary petition consisting of additional papers signed and filed as provided for an original petition, and the cCity cClerk shall examine the amended petition within five (5) days after an amendment is filed. If the petition is still insufficient, the cCity cClerk shall file the certificate to that effect and notify the petition committee of this finding. No further action on that petition shall be permitted, but the insufficiency shall not prejudice the filing of a new petition for the same purpose.

Sec. 6.06. - Effect of certification of referendum petition.

When a referendum petition or amended petition is certified as sufficient by the cCity cClerk, the ordinance specified ~~therein~~ in the petition shall not go into effect or, if it has already gone into effect, no further action ~~thereunder~~ under such ordinance shall be taken until it shall have has been approved by the electors as provided in this article.

Sec. 6.07. - Consideration by City Commission.

The cCity cCommission shall proceed ~~forthwith~~ immediately to consider any certified initiative or referendum petition received from the cCity cClerk. In considering an ordinance proposed by initiative petition, the cCity cCommission shall follow the same procedural requirements for passage that are prescribed ~~hereby~~ for ordinances generally, including public hearing ~~thereon~~, and the cCity cCommission shall take final action ~~thereon~~ on such petition not later than thirty (30) days after the date of submission ~~thereof to it~~. The cCity cCommission shall reconsider any ordinance referred to it for repeal or for calling a referendum ~~thereon~~ and, within fifteen (15) days after referral to it, shall vote either to repeal the ordinance or to call a referendum election ~~thereon~~.

Sec. 6.08. - Submission to electors.

If the cCity cCommission fails to pass an ordinance proposed by initiative petition or passes it in a form different from that set forth in the petition, or if the cCity cCommission fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors in its original form not less than thirty (30) days nor more than ninety (90) days after final vote ~~thereon~~ by the cCity cCommission. The cCity cCommission may provide for a special election, ~~and it shall so provide~~ if no regular election is to be held within this period. The ninety days may be extended for up to thirty days if a regular or special election is already scheduled within one hundred and twenty (120) days from the final vote.

Sec. 6.09. - Form of ballot for initiated and referred ordinances.

Ordinances submitted to vote of the electors pursuant to this article shall be submitted by ballot title, which shall be prepared by the cCity aAttorney. The ballot title may be different from the legal title of the initiated or referred ordinance and shall be a clear, concise, and impartial description of the substance of the ordinance. The ballot used in voting on the ordinance shall list below the ballot title two (2) propositions in this order, with a lever or square enabling the elector to vote for either:

"For the ordinance."

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"Against the ordinance."

or such other indication of a "yes" or "no" vote as determined by the city attorney.

Sec. 6.10. - Results of election.

Any ordinance proposed by initiative shall, ~~upon favorable vote by a majority of the electors voting thereon,~~ become an ordinance of the cCity; if approved by a majority of the electors voting, and become effective on the tenth day after certification of the election returns. ~~A~~ If multiple referred ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of ~~the~~ any conflict between such ordinances.

Sec. 6.11. - Publication, repeal, and amendment.

Initiative ordinances adopted by the cCity cCommission and referendum ordinances approved by the electors shall be published and may be amended or repealed by the cCity cCommission as provided ~~hereby~~ for other ordinances; provided, within six (6) months from adoption or approval, no such ordinance shall be amended in substance or repealed ~~otherwise than~~ by unanimous vote of the membership of the cCity cCommission (five votes) or by referendum.

ARTICLE VII. - DEFINITIONS AND RULES OF CONSTRUCTION

Sec. 7.01. - Definitions.

Unless qualified in the text the following definitions and rules of construction shall apply hereto:

- (1) ~~h~~Herein," "hereby," "hereof," and similar compounds refer to the entire cCharter.
- (2) ~~t~~The singular includes the plural.
- (3) ~~t~~Titles and subtitles shall not be used in construction; and the numbers or letters designating articles, sections, or parts ~~thereof~~ of sections shall be construed solely as an aid to identification and shall not be construed so as to affect the meaning of the provisions ~~thereof~~.
- (4) ~~i~~nvalidation of any portion ~~hereof~~ shall not affect any other portion that is not inseparably connected therewith in meaning and effect.
- (5) ~~t~~The term "including" shall be construed as merely introducing illustrative examples and not as limiting in any way the generality of the inclusive term.
- (6) ~~t~~The term "may" means "shall have the power to" and includes authorization to exercise discretion.
- (7) ~~t~~The term "person" includes a natural person of either sex and any legally recognized type of artificial person, including a firm, corporation, partnership, syndicate, or other association.

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(8) ~~t~~The term "law" includes the United States and State of Florida Constitution, the general statutes, the special or local laws relating to the cCity, and the applicable judicial decisions and administrative regulations, current or future.

(9) ~~t~~The term "regulation" includes a rule.

(10) ~~t~~The term "registered mail" includes certified mail.

(11) ~~t~~The term "resident" or "residing in" refers to domicile or permanent legal residence as distinct from temporary residence and from physical presence at any given time.

(12) ~~t~~The term "sState" means State of Florida.

(13) ~~t~~The term "cCity" means City of West Palm Beach, Florida.

(14) ~~t~~The term "officer," when used with reference to the cCity, includes the mMayor, each cCity cCommissioner, the cCity aAdministrator, each aAssistant cCity aAdministrator, the head of each bureau, the head of each department, and each other cCity employee that may be designated a cCity officer by directive of the mayor or the cCity cCommission ~~not inconsistent herewith~~ this charter; and all references to an officer shall include the acting officer serving in his or her stead. Members of appointive boards and commissions, and police officers other than the cChief or aActing cChief, shall not be considered officers of the cCity, as the term "officer" is used generally herein, unless specifically so designated by ordinance or by resolution of the cCity cCommission.

(15) ~~t~~The term "agency," when used with reference to the cCity, includes the cCity cCommission, an officer, a bureau, a department, a division, a board, a commission, or any other organizational unit authorized to exercise a power of the cCity.

(16) ~~t~~The term "of the membership," when used with reference to a vote by a cCity agency, includes all members of that agency holding office as voting members of it at the time the vote is taken. The term "majority," without qualification, means a majority of a quorum; the term "quorum" in turn means a majority of the membership as defined in this subsection; and a majority of a quorum may take valid action, and shall be the lowest number that may take valid action, in all instances in which no numerical or percentage requirement for action is specified; provided fewer than a majority may adjourn from time to time and compel the attendance of absent members.

(17) ~~t~~The term "vote of the electors" means the vote of the majority of those cCity electors actually voting on the matter in question in an election, general or special, and the term "elector" or "qualified elector" means a resident of the cCity ~~possessing the qualifications prescribed herein and registered in accordance herewith~~ with the supervisor of elections to vote in city elections.

(18) aAny percentage or number required hereby for valid action by an agency or by the electorate shall be construed as a minimum.

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(19) ~~t~~The term "newspaper of general circulation," except as regards annexation or other matters involving consideration by persons residing outside the cCity, means a newspaper published in the cCity and of general circulation therein.

(20) ~~t~~The term "enterprise fund" means a fund established to account for operations that are financed and operated in a manner similar to private business enterprises where the costs of providing goods and services to the public are recovered primarily through user charges or where the periodic determination of revenues, expenses or net income is appropriate for capital maintenance, public policy, management control, accountability or other purposes.

ARTICLE VIII. - SCHEDULE

- o Sec. 8.01. - Effective date.
- o Sec. 8.02. - Ordinances preserved.
- o Sec. 8.03. - Repeal of former Charter provisions.
- o Sec. 8.04. - Officers, employees and agents.
- o Sec. 8.05. - Contracts preserved.
- o Sec. 8.06. - Existing rights, obligations, duties and relationships.
- o Sec. 8.07. - Pension and civil service status.

Sec. 8.01. - Effective date.

This cCharter became effective on October 1, 1988, except for sSection 4.05 herein, which became effective January 1, 1989, as approved by a majority vote of the electors of the cCity of ~~West Palm Beach~~ voting on the question of the approval or disapproval of this cCharter in and at the regular cCity of ~~West Palm Beach~~ municipal election held in the cCity of ~~West Palm Beach~~ on the 8th day of March 1988.

Sec. 8.02. - Ordinances preserved.

All ordinances in effect upon the adoption of this cCharter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

Sec. 8.03. - Repeal of former Charter provisions.

All cCharter provisions in effect prior to the effective date of this cCharter, including but not limited to those contained in Laws of Fla., ch. 65-2381, as amended, are repealed.

Sec. 8.04. - Officers, employees and agents.

The adoption of this cCharter, except as otherwise specifically provided, shall not affect or impair the rights, privileges or immunities of persons who are city officers, employees or agents

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at the time of adoption of this cCharter. ~~All elected officers holding office on October 1, 1988, shall continue in office for the terms to which elected.~~

Sec. 8.05. - Contracts preserved.

No debt or obligation of contract of the cCity of ~~West Palm Beach~~ shall be impaired as a result of the adoption of this cCharter, but all such debts and obligations shall pass to and be binding upon the municipality which is hereby organized and continued.

Sec. 8.06. - Existing rights, obligations, duties and relationships.

All rights, obligations, duties and relationships now existing by law or agreement between the cCity of ~~West Palm Beach~~ and other governmental units shall be unaffected and shall remain in full force and effect.

Sec. 8.07. - Pension and civil service status.

This cCharter shall not affect the civil service, ~~or~~ pension retirement rights or status of any person as such rights or status are established by ordinance of the cCity of ~~West Palm Beach~~ and shall remain in full force and effect until modified or repealed as provided by law.