

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 09-10

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, CALLING FOR AND ORDERING A BINDING REFERENDUM TO BE HELD IN THE CITY OF BONITA SPRINGS ON JANUARY 26, 2010; TO DETERMINE WHETHER A MAJORITY OF THE ELECTORS VOTING IN SUCH REFERENDUM ARE IN FAVOR OF CERTAIN PROPOSED CHARTER AMENDMENTS; ESTABLISHING THE DATE OF THE REFERENDUM FOR THE CHARTER AMENDMENTS TO BE HELD ON JANUARY 26, 2010; REQUESTING THAT THE LEE COUNTY SUPERVISOR OF ELECTIONS CONDUCT THE ELECTION IN ACCORDANCE WITH APPLICABLE LAWS AND REGULATIONS; PROVIDING BALLOT LANGUAGE; DIRECTING THAT THE NOTICE OF ELECTION BE PREPARED AND PUBLISHED; PROVIDING FOR SEVERABILITY, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs was incorporated on December 31, 1999 with its initial Charter; and

WHEREAS, the City of Bonita Springs City Council appointed a Charter Review Committee to ascertain whether amendments changing portions of the initial Charter should be considered by the electors at a referendum on the January 2010 ballot; and

WHEREAS, the Charter Review Committee on February 5, 2009 adopted certain recommendations to City Council for amendments to the Charter; and

WHEREAS, City Council at its February 18, 2009 meeting reviewed the recommendations and made changes thereto where they deemed appropriate; and

WHEREAS, the City Council is desirous of submitting the following Charter amendments to the electors of the City of Bonita Springs in a duly called and held referendum.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

SECTION 1. The City Council hereby calls for and orders the holding of a binding referendum for the qualified electors of the City of Bonita Springs to be held on January 26, 2010 to decide whether a majority of the electors voting therein approve to amend the Charter as proposed All qualified electors

residing in the City of Bonita Springs on the date thereof shall be entitled and permitted to vote in such referendum.

SECTION 2. The date of the referendum shall be January 26, 2010.

SECTION 3. The Lee County Supervisor of Elections shall conduct the referendum.

SECTION 4. The City of Bonita Springs shall reimburse the Lee County Supervisor of Elections for the cost of the referendum.

SECTION 5. The ballot language shall be as follows:

**OFFICIAL BALLOT
CHARTER AMENDMENTS
CITY OF BONITA SPRINGS, LEE COUNTY, FLORIDA**

**CHARTER AMENDMENT ONE
CLARIFY COUNCIL FORM OF GOVERNMENT**

Section 8 of the Charter shall be amended to clarify that unless explicitly stated otherwise in the Charter, the terms City Council or Council as used throughout the Charter shall mean the Mayor and six City Council members collectively as one governing body and, thereafter, City Council may adopt by ordinance appropriate amendments to the City Charter to correct usage to this intent.

YES
NO

**CHARTER AMENDMENT TWO
TERM LIMITS**

Section 13(c) of the Charter shall be amended that no one can serve more than eight consecutive years (two terms) in the singular position of Mayor or Council, or more than sixteen consecutive years (four terms) in any combination of the positions. After two years out of office, an individual may re-qualify for any seat on the City Council as a Council member or as Mayor.

YES
NO

CHARTER AMENDMENT THREE
REFERENDUM SPENDING; CAMPAIGN SPENDING

Section 15 of the Charter shall be amended to modify referendum and campaign spending limits by increasing the maximum cap annually based on the Consumer Price Index for All Urban Consumers (CPI-U) or three (3%) percent, whichever is less.

YES
NO

CHARTER AMENDMENT FOUR
DECREASE RUN-OFFS WITH MULTIPLE CANDIDATES

Section 17 of the Charter shall be amended that instead of 50% plus one voter, the person with the highest number of votes cast for the seat shall be elected. A run-off will be held in the event of an exact tie on the earliest date that the run-off election can be conducted.

YES
NO

CHARTER AMENDMENT FIVE
DEPUTY MAYOR / FILLING VACANT COUNCIL SEATS

Sections 18 and 21 (C) of the Charter shall be amended to clarify that the Deputy Mayor is elected by City Council and, if a vacancy occurs, the Deputy Mayor serves as Mayor unless the vacancy is more than 180 days, in which case the seat is filled by special election for the remainder of the term.

YES
NO

CHARTER AMENDMENT SIX
VOTING REQUIREMENTS

Section 26 of the Charter shall be amended to permit voice votes instead of roll calls on certain votes taken by City Council, and require a majority of the eligible voting Council members present rather than an affirmative vote of four members to be valid and binding. Voting on ordinances shall continue to be by roll call for first, second and final reading and recorded in the minutes, or when requested by a Council member.

YES
NO

CHARTER AMENDMENT SEVEN
ORDINANCE REQUIREMENTS

Section 27 of the Charter shall be amended to permit the City Council to adopt resolutions to establish, alter, or abolish any City department office, or agency; or to grant, renew, or extend a franchise, instead of enacting an ordinance.

YES
NO

CHARTER AMENDMENT EIGHT
ORDINANCE REQUIREMENTS IN GENERAL

Section 29 of the Charter shall be amended to eliminate the mandatory thirty day waiting period on every ordinance and publication requirements after passage having an effective date in accordance with state law or ten days after enactment. Nothing precludes City Council from adopting an ordinance with a different effective date, consistent with state law.

YES
NO

CHARTER AMENDMENT NINE
CITY CLERK AND FINANCE DIRECTOR AS TWO SEPARATE OFFICES

Section 37 of the Charter shall be amended to distinguish the functions and responsibilities of the City Clerk and Finance Director as separate City officers.

YES
NO

CHARTER AMENDMENT TEN
CHARTER REVIEW COMMITTEE

Section 57 of the Charter shall be amended to establish a Charter Review Committee, appointed by City Council, to meet at least every ten years to consider and make recommendations to City Council relative to the City Charter.

YES
NO

SECTION 6. The proposed amendment to the Charter is attached as Exhibit "A" to this Ordinance, and is incorporated into this Ordinance.

EXHIBIT A
CHARTER REFERENDA AMENDMENT

The proposed referenda language would amend the City of Bonita Springs City Charter, as shown by strikethroughs to delete existing text and by underlining new text, as indicated below.

SECTION 8 FORM OF GOVERNMENT

The form of government established under this charter shall be a City-Manager form as herein provided, with a governing body known as the City Council ~~to consisting~~ of a Mayor and six City Council members who will be elected in the manner hereinafter provided. The City Council will constitute the governing body of the City, with the duties and responsibilities hereinafter provided. Unless explicitly stated otherwise in the Charter, the terms City Council or Council as used throughout the Charter shall mean the Mayor and six City Council members collectively as one governing body. City Council may, after a public hearing, enact an ordinance to amend any provision of this Charter to correct usage as to this intent. The City Council shall appoint a City Manager to be the Chief Administrative Officer of the City and who shall serve at the pleasure of the City Council.

SECTION 13 COMPOSITION OF CITY COUNCIL, ELIGIBILITY, ELECTIONS, TERMS, TERM LIMITS.

- (a) There shall be a City Council composed of the Mayor and six Council members. One Council member shall be nominated and elected by the voters in each of the six Council districts. Each Council member, excluding the Mayor, must reside in the district they represent. The Mayor shall be elected at-large within the City in the manner provided for in this charter and must reside within the City.
- (b) Only registered voters of the City shall be eligible to hold the office of Council member or Mayor. Candidates qualifying for any seat on the Council shall have been residents and registered voters of the particular district for a minimum of six months immediately preceding the commencement of the term of office and must be a resident of the District they represent during their incumbency. Candidates qualifying for Mayor shall have been residents and registered voters of the city for a minimum of six months immediately preceding the commencement of the term of office and must be a resident of the City during their incumbency.
- (c) The regular election of Council members and the Mayor will be set by ordinance ~~on the last Tuesday in January of each even numbered year.~~

All Council members and the Mayor shall serve for terms of four (4) years, as adjusted by election dates. The terms of Council members and the Mayor shall begin ~~2 weeks from~~ on the date of the certification of their election. Each Council member and the Mayor will remain in office until a successor is ~~elected~~ certified as being elected to such office. ~~and assumes the duties of the position which shall begin 2 weeks from the date of the certification of their election.~~ No one shall serve, or but for resignation would have served, more than eight (8) consecutive years, or two (2) complete terms, in the singular position of Mayor or Council member or more than sixteen (16) consecutive years, or four (4) complete terms, in any combination of the positions of Mayor and Council member. The foregoing limitations shall not apply to the succession or election to fill a vacancy in a term of office for a period of less than two (2) years. ~~Neither the Mayor nor any other Council member may serve more than two consecutive 4 year terms in the same seat.~~ After two (2) years out of office, a candidate an individual may re-qualify for any vacant seat on the City Council as a Council member or as Mayor, however, resignation from office that results in such individual being out of office for two (2) years shall constitute a complete term, regardless of the time in office.

- (d) Any elector of the City who wishes to become a candidate for a City elective office shall qualify with the City Clerk. Candidates must submit their names and proof of qualification, as described in this Charter and in the applicable provisions of Chapter 99, Florida Statutes, to the office of the Lee County Supervisor of Elections between the first and fourteenth working business day of the October prior to the election. Proof of qualification includes proof of current address and ~~six month~~ compliance with the residency requirement. Each candidate shall pay a qualifying fee as set forth ~~in~~ under the Florida elections laws for municipal candidates.

SECTION 15 REFERENDUM SPENDING LIMITS; CAMPAIGN SPENDING LIMITS

- a. There shall be a maximum cap of not more than \$1. per registered voter in the City placed on campaign spending for any referendum vote for or against such referendum question. Effective February 1, 2010, and annually thereafter, the cap shall be increased based on the Consumer Price Index for All Urban Consumers (CPI-U) (or successor reports) for the preceding calendar year or three (3%) percent, whichever is less.
- b. No candidate for a ~~City Council~~ member seat may spend more than \$2. per registered voter in his or her District (as of the preceding municipal general election) on an election. No candidate for Mayor may spend more than \$2. per registered voter (as of the preceding municipal general election) in the City on an election. Effective February 1, 2010, and

annually thereafter, the cap shall be increased based on the Consumer Price Index for All Urban Consumers (CPI-U) (or successor reports) for the preceding calendar year or three (3%) percent, whichever is less. The candidate spending limit applies to all campaign spending, whether a direct expenditure from a candidate or by an indirect source such as a group, club, association or other organization, including a political action committee.

SECTION 17 MULTIPLE CANDIDATES.

~~In the event that multiple candidates qualify for election to a single office, the candidate receiving a majority of votes cast shall be elected. If no candidate receives a majority, then the two candidates receiving the most votes shall have a run-off election to decide the winner of the election for that office. If required, the run-off election shall be held on the second Tuesday in April following the general election. The candidate who receives the highest number of votes cast for the seat or for the office for which he or she is running shall be declared to be elected. In the event of a tie between the candidates for any seat in the general election, following a mandatory recount, another election shall be held on the earliest date that the run-off election can be conducted. The candidates receiving the equal votes shall be the only candidates on the ballot for the run-off election.~~

SECTION 18 MAYOR

A Mayor shall be elected, at-large, and shall serve for a term of 4 years. The Mayor shall be a voting member of the City Council and shall preside at meetings of the City Council, represent the City in intergovernmental relationships, appoint with the advice and consent of the other members of the City Council the members of citizen advisory boards and commissions, present an annual "State of the City Message," and perform other duties as specified by the City Council and this Charter. The Mayor shall be recognized as head of the City government for all ceremonial purposes and by the Governor for purposes of martial military law, but shall have no administrative duties. In addition to any other duties, the Mayor shall have a voice and a vote in all City Council proceedings, but shall have no veto power. The Council shall elect, from among its members, a Deputy Mayor who shall act as Mayor during the absence or disability of the Mayor and, if a vacancy occurs, shall become Mayor for the remainder of the unexpired term if less than 180 days before the next general election, otherwise, Section 21 (c) applies.

SECTION 21. VACANCIES; FORFEITURES OF OFFICE; FILLING VACANCIES.

(a) The office of a Council member, including the Mayor, shall become vacant upon the member's death, resignation, inability to fulfill the duties of the

office, movement of residence outside the District, or removal from office as authorized by law or this charter.

- (b) A Council member shall forfeit the office if the Council member: lacks at any time during the term of office any qualification for the office prescribed by this charter or as provided by law; violates any express prohibition of this charter; is convicted of a crime involving a felony or moral turpitude; or fails to attend three consecutive regular meetings of the Council without being excused by the Council.
- (c) A vacancy on the City Council, except for the position of Mayor, shall be filled by Special Election for the remainder of the unexpired term by a representative from the incumbent's district to serve until the next general election, unless the vacancy occurs not more than 180 days before the general election. In the event the Mayor becomes unable to fulfill the duties of office, ceases to be qualified, or is removed from office as provided by law or this charter, the Deputy Mayor of the Council shall assume the full powers and duties of the Mayor unless the vacancy occurs more than 180 days before the general election, in which case the position will then be filled by Special Election for the remainder of the unexpired term. The Deputy Mayor of the Council shall temporarily relinquish his or her office as Council member and shall assume the office of Mayor for the period of time until the new Mayor can be seated remainder of the unexpired term. ~~The Council vacancy shall be filled as provided for in this subsection.~~

SECTION 26 VOTING BY CITY COUNCIL

Voting, ~~except for ordinances or when a roll call vote is requested by any member of the City Council, on procedural motions,~~ shall be by voice vote. ~~roll call with the ayes and nays recorded in the journal.~~ Voting on ordinances shall be by roll call for first and second or final reading and recorded in the minutes. Four Council members shall constitute a quorum, but a smaller number may adjourn from time-to-time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided for in this charter, shall be valid or binding unless adopted by the affirmative vote of a majority of the eligible voting Council members present. ~~four or more Council members.~~

SECTION 27 ACTIONS REQUIRING AN ORDINANCE

In addition to other acts required by law or by specific provision of this charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

- ~~(a) Establish, alter, or abolish any City department office, or agency; —~~
- ~~(b) Grant, renew, or extend a franchise;~~

- (a) ~~(e)~~ Regulate the rate charged for its services by a public or private utility when not regulated or preempted by state law;
- (b) ~~(d)~~ Authorize the borrowing of money;
- (c) ~~(e)~~ Convey or lease, or authorize the conveyance or lease of, any City real property when the value of the lease or conveyance exceeds \$15,000; and
- (d) ~~(f)~~ Regulate land use and development.

Acts other than those referred to in this section may be done either by ordinance or by resolution, unless otherwise provided by applicable Florida law.

SECTION 29 ORDINANCES IN GENERAL

- (a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject together with matters properly connected therewith which will be clearly expressed in its title. The enacting clause shall be "The City of Bonita Springs hereby ordains.....". Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance, section or subsections to be repealed or amended, and shall indicate matters to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matters by underscoring or by italics. All ordinances shall be adopted as provided for in Chapter 166, Florida Statutes, as such may be amended from time-to-time.
- (b) An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any proposed ordinance, the City Clerk/~~Treasurer~~ shall distribute a copy to each Council member and to the City Manager, shall file a reasonable number of copies in the office of the City Clerk/~~Treasurer~~ and such other public places as the Council may designate, and shall publish the proposed ordinance together with a notice setting forth the time and place for a public hearing thereon and for its consideration by the Council. The proposed ordinance shall be read in full or by title at no less than two public meetings of the City Council, the first of which will be permission to advertise the public hearing. The public hearing shall follow the publication by at least 10 days, may be held separately or in connection with a regular or special Council meeting that may be adjourned from time-to-time, and all persons interested shall have an opportunity to be heard. After the hearing the Council may enact ~~adopt~~ the ordinance with or without amendments or reject it. If it is amended as to any matter of substance, the ~~e~~Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures required in the case of a newly introduced ordinance. As soon as practicable after enactment adoption, the City Clerk/~~Treasurer~~ shall ~~have a summary of the ordinance and a notice of its adoption published.~~ A copy of make available the complete ordinance for inspection ~~will be available at a reasonable price.~~

- (c) Except as otherwise provided in this ~~e~~Charter every enacted adopted ordinance shall become effective 10 calendar days after approval or as otherwise provided in the ordinance or by state statute. ~~30 days after adoption or at any later date specified in the ordinance.~~
- (d) As used in this section, “publish” means to print in one or more newspapers of general circulation in the City:
- (1) The ordinance or a brief summary thereof; and
 - (2) The place where copies of it have been filed and the times when they are available for public inspection and purchase at a reasonable price.

SECTION 37 CITY CLERK/ FINANCE DIRECTOR ~~TREASURER~~

- (a) City Clerk. There shall be a City Clerk/~~Treasurer~~ who shall be appointed by the City Manager with the consent of the City Council. ~~At the time of appointment, the City Clerk/Treasurer need not be a resident of the City or State, but may not reside outside the City while employed without approval of the Council.~~ The City Clerk/~~Treasurer~~ shall serve at the pleasure of the City Manager and shall:
1. Give notice of City Council meetings to its members and the public;
 2. Keep the journal and minutes of the proceedings of the City Council;
 3. Authenticate by signature and record, in books kept for that purpose, all ordinances and resolutions passed by the City Council;
 4. Be custodian of the City’s seal;
 5. Have the power to administer oaths; and
 6. ~~7.~~ Perform such other duties as may be assigned by the City Manager.
 6. ~~Receive, safely keep, and disburse, under the direction of the Council, all funds belonging to or under the control of the municipality, and keep an accurate account of all receipts and disbursements in such manner as the City Manager shall direct. All checks drawn upon depository of City funds shall be countersigned by those persons designated by resolution of the City Council; and~~
- (b) City Finance Director. There shall be a City Finance Director who shall be appointed by the City Manager with the consent of the Council. The Finance Director shall serve at the pleasure of the City Manager and shall:
1. Receive, safely keep, and disburse, under the direction of the Council, all funds belonging to or under the control of the City, and keep an accurate account of all receipts and disbursements in such

manner as the City Manager shall direct. All checks drawn upon depository of City funds shall be countersigned by those persons designated by resolution of the City Council;

2. To invest all funds of the City according to law, and the instructions of the City Council;
3. To pay out on behalf of the City under the supervision of the City Manager by checks or other orders of payment, all payments due from the City, provided that the City Council shall provide by resolution, the manner in which all checks or other orders of payment are to be signed, which shall require at least two (2) countersignatures, all of which may be by facsimile or other electronic means;
4. To prescribe all records and forms pertaining to the disbursement and receipt of funds;
5. To submit monthly financial statements to the City Council showing all receipts and disbursements, and the financial condition of the City;
6. To furnish to the City Manager such financial services as may be required from time to time;
7. Have access to inspect, copy, or take possession of all records relating to the receipt or expenditure of funds of the City;
8. Require regular reports from each department, office or employee receiving or disbursing funds of the City, showing the amounts, source and purpose thereof;
9. Keep an accurate account of all appropriations made by the City Council;
10. To work with the independent auditor employed annually by City Council to make a complete audit of the City; and
11. Perform such other duties as may be assigned by the City Manager.

- (c) City Council may, after a public hearing, adopt an ordinance to amend any Charter provision to separate the duties of the City Clerk or Finance Director.

SECTION 57. AMENDMENTS TO CITY CHARTER.

~~The~~ This eCharter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rule Powers Act, Chapter 166, Florida Statutes, as the same may be amended from time-to-time, or its successor, or as may otherwise be provided by general law. City Council shall establish a Charter Review Committee, appointed by City Council, to meet at least every ten years after dissolution of the previous Charter Review Committee to consider and make recommendations to City Council relative to the City Charter. The City Council may, by ordinance, or the qualified registered voters of the City may, by petition signed by 10 percent of the electors registered to vote in the last regular City general election, submit to the electors of the City a

proposed amendment to any part or all of ~~the~~ this eCharter. The form, content, and certification of any petition to amend shall be established by ordinance.