

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 19 – 09

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 MARCH 17, 2020; 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 AMENDMENT TO BE HELD ON MARCH 17, 2020; REQUESTING THAT THE LEE COUNTY SUPERVISOR OF ELECTIONS CONDUCT THE ELECTION IN ACCORDANCE WITH THE APPLICABLE LAWS AND REGULATIONS; PROVIDING BALLOT LANGUAGE; DIRECTING THAT THE NOTICE OF ELECTION BE PREPARED AND PUBLISHED; PROVIDING FOR INCLUSION IN THE CHARTER; 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, Chapter 166, Florida Statutes, provides for the methodology for Charter amendments where such amendments may be submitted to a referendum vote by the municipal governing body, in an ordinance format; and

WHEREAS, Section 57 of the Charter mandates the appointment of a Charter Review Committee at least every 10 years, which shall review the municipal charter and recommend to the City Council such revisions and amendments as the Committee determines to be desirable; 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 March 17, 2020 ballot; and

WHEREAS, the Charter Review Committee on September 23, 2019 adopted certain recommendations to City Council for amendments to the Charter; and

WHEREAS, the City Council at its October 2, 2019 meeting reviewed the recommendations and made changes thereto where they deemed appropriate; and

WHEREAS, pursuant to Section 166.031, Florida Statutes, and following the City Council's review, the City of Bonita Springs has caused the final drafting and preparation of the proposed amendments to the City Charter for submission to the electors of the City in a duly called and held referendum.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

- SECTION 1.** The above recitals are true and correct and incorporated herein by this reference.
- SECTION 2.** 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 March 17, 2020 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 3.** The Lee County Supervisor of Elections shall conduct the referendum. Balloting shall occur at regular times and places for City elections or as otherwise provided by the Lee County Supervisor of Elections in accordance with applicable law. Early voting may be provided as authorized by law.
- SECTION 4.** The City of Bonita Springs shall reimburse the Lee County Supervisor of Elections for the cost of the referendum.
- SECTION 5.** The notice of the election shall be published in accordance with Section 100.342, Florida Statutes, in a newspaper of general circulation within the City at least thirty (30) days prior to the election. The first publication to be in the fifth week prior to the election with the second in the third week prior to the election.
- SECTION 6.** The proposed ballot titles and questions for each Referendum Item proposed herein to be placed on the ballot are fully described below; however the City Council reserves the right to further amend the ballot titles and questions, but not the Charter amendments themselves, if necessary to clarify the intent of the proposed revisions for the voting public; any such proposed changes must be made by Resolution of the Council prior to ballot finalization by the Lee County Supervisor of Elections. The ballot language shall be as follows:

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

**CHARTER AMENDMENT ONE
VACANCIES IN OFFICE**

Section 18 and 21 of the Charter shall be amended to clarify that in the event a vacancy occurs on the city council, a special election to fill the vacant seat will only be called if the vacancy occurs more than 180 days from an otherwise scheduled general election. In the event of a vacancy in the office of mayor, the deputy-mayor will serve as mayor until a new mayor is elected.

YES
NO

**CHARTER AMENDMENT TWO
COMPENSATION**

Section 19 of the Charter shall be amended to reflect and clarify the current salaries of the city council and mayor, as well as link the current cost of living adjustment to the appropriate U.S. Department of Labor Consumer Price Index.

YES
NO

**CHARTER AMENDMENT THREE
COMPENSATION ADVISORY COMMITTEE**

Section 19 of the Charter shall be amended to establish an advisory committee to study and make recommendations to the council on the compensation and benefits of the council. Whether based on the committee's recommendation or on the council's own initiative any compensation changes would go into effect following the next city election.

YES
NO

CHARTER AMENDMENT FOUR
COUNCIL MEETINGS

Section 24 of the Charter shall be amended to increase the minimum time from 12 to 48 hours, exclusive of weekends, for the calling of a council meeting where council action is contemplated. Meetings where no action is undertaken and meetings to address emergency situations would require 24 and 12 hours' notice, respectively.

YES
NO

CHARTER AMENDMENT FIVE
ADOPTION OF ORDINANCES

Section 29 of the Charter sets forth and duplicates many of the requirements of state law relating to the noticing of municipal ordinances. Section 29 also provides that municipal ordinances once adopted must be published and cannot go into effect for an additional 30 days.

Shall Section 29 of the Charter be amended to remove such duplicative provisions and unnecessary limitations on the council's ability to adopt ordinances?

YES
NO

CHARTER AMENDMENT SIX
RECORDKEEPING

Section 32 of the Charter shall be removed to no longer require the City to publish printed binders of all ordinances and resolutions having the force of law. Such removal shall provide the City with the flexibility to provide for codification of City regulations by other means.

YES
NO

CHARTER AMENDMENT SEVEN
BUDGET NOTICE

Section 44 of the Charter provides that the City budget shall be published in newspapers of general circulation along with the dates and required hearings for adoption. Notice and hearing requirements are already provided by state law and the budget is similarly required to be published in full on the City website. Shall the unnecessary and duplicative provisions of Section 44 be removed from the Charter?

YES
NO

CHARTER AMENDMENT EIGHT
LAPSE OF APPROPRIATIONS

Section 47 of the Charter shall be amended to remove a provision that requires unexpended capital appropriations to be deemed abandoned after three (3) years.

YES
NO

CHARTER AMENDMENT NINE
CAPITAL PROGRAM

Section 50 of the Charter and its requirement that City annually prepare a five (5) year capital improvement program shall be removed. The City is already required, pursuant to recent changes in state law to publish its capital improvement program annually.

YES
NO

CHARTER AMENDMENT TEN
POLITICAL ACTIVITIES BY OFFICERS AND EMPLOYEES

Section 62 of the Charter shall be amended to limit city officers from holding or being a candidate for elected public office in the city or use their position to support or oppose any candidate or affect any election. Similarly, Section 62 shall be amended to prohibit the council from influencing city employees with respect to candidates or issues.

YES
NO

CHARTER AMENDMENT ELEVEN
STATE REVENUE SHARING

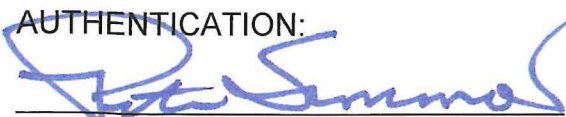
Section 73 of the Charter shall be amended to remove transitional provisions relating to the city's initial incorporation and clarifying city's continued entitlement to state revenue sharing.

YES
NO


- SECTION 7.** The proposed amendment to the Charter is attached as Exhibit "A" to this Ordinance, and is incorporated into this Ordinance.
- SECTION 8.** The appropriate city officials are hereby authorized and directed to take such actions as necessary to effectuate the provisions of this Ordinance and provide public notice of the referendum in accordance with law.
- SECTION 9.** This Ordinance shall take effect thirty (30) days from its adoption date.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this 16th day of October, 2019.

AUTHENTICATION:




 Mayor



 City Clerk

APPROVED AS TO FORM:



 City Attorney

Vote:

Carr	Aye	O'Flinn	Aye
DeWitt	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Gibson	Aye		

Date filed with City Clerk: 11/4/19

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 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 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 19. - Compensation; expenses.

The mayor shall receive ~~\$20,000.00~~ \$22,596.00 annually, payable monthly, and each city council member shall receive ~~\$15,000.00~~ \$16,947.00 annually, payable monthly, as compensation for their services. This amount of compensation shall be revised annually based on a cost of living adjustment (COLA) ~~in the same time and manner as for city employees published by the U.S. Department of Labor Bureau of Labor Statistics, Consumer Price Index, South Region, in effect as of April 1st of that year, or a comparable index if it is no longer published.~~ The council may provide for reimbursement of actual expenses incurred by its members, including the mayor, while performing their official duties. From time to time, but in no event less often than every four 4 years, the city council shall appoint an advisory committee, consisting of 5 electors, for the purpose of studying and making recommendations to the council on the level of compensation, exclusive of COLA adjustments provided above, and benefits for the mayor and councilmembers. If, whether based on such recommendation or otherwise, the council takes action to change the level of compensation for the members then sitting on the council, such change shall begin on the first day following the next ensuing regular municipal election.

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 until the new mayor can be seated ~~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 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. If the vacancy occurs within 180 days of a general election then no special election shall be called and the seat will remain vacant until filled upon the outcome of the general election.~~

Section 24. - Meetings.

The council shall meet regularly at least once every month at such time and place as the council may prescribe. Special meetings may be held on the call of the mayor or of four or more members and, whenever practical, upon no less than 48 hours' notice, exclusive of any weekend hours, to each member and the public. Special meetings called to address a state of emergency may be called upon no less than 12 hours' notice, however the council shall be limited to taking actions solely to address the emergency situation. Action taken at a special meeting shall be limited to the purpose for which the special meeting is called. Nothing herein shall prohibit the council from holding workshops or other meetings where no action is taken upon no less than 24 hours' notice. Except as authorized by law, all meetings shall be open to the public.

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 ordinance, the city clerk/treasurer [city clerk] 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 [city clerk] and such other public places as the council may designate, and shall publish the 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 adopt the ordinance with or without amendments or reject it. If it is amended as to any matter of substance, the 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 adoption, the city clerk/treasurer [city clerk] shall have a summary of the ordinance and a notice of its adoption published. A copy of the complete ordinance will be available at a reasonable price.~~
- (c) ~~Except as otherwise provided in this Charter, every adopted ordinance shall become effective 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 32. – Reserved.

~~Section 32. Authentication and recording: codification; printing.~~

- ~~[(a)] An ordinance shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the city clerk/treasurer [city clerk]. Copies of the ordinance shall be available to the public at a reasonable price.~~
- ~~[(b)] Within 3 years after adoption of this Charter and at least every 10 years thereafter, the city council shall provide for the preparation of a general codification of all city ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the council by ordinance~~

~~and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Florida Constitution and other laws of the State of Florida, and such codes of technical regulations and other rules and regulations as the council may specify. This compilation shall be known and cited officially as the Bonita Springs City Code. Copies of the code shall be furnished to city officers, placed in libraries and public offices for public reference and made available for purchase by the public at a reasonable price.~~

~~[(c)] Printing of ordinances and resolutions. The city council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions, and Charter amendments shall be distributed or available to the public at a reasonable price. Following publication of the first Bonita Springs City Code and at all times thereafter, the ordinances, resolutions, and Charter amendments shall be printed in substantially the same style as the code then currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in, or additions to, the codes of technical regulations and other rules and regulations to be included in the code.~~

Section 44. – Reserved.

~~Section 44. – City council action on budget.~~

~~The council shall publish in one or more newspapers of general circulation in the city a general summary of the budget and notice of where copies of the budget are available for inspection by the public and the time and place for public hearings on the budget. There will be a minimum of two public hearings prior to the city council adopting the budget by resolution. A resolution adopting the annual budget shall constitute appropriation of the amounts specified therein as expenditures from funds indicated.~~

Section 47. – Lapse of appropriations.

~~Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until expended, revised, or repealed; the purpose of any such appropriation shall be deemed abandoned if 3 years pass without any disbursement from or encumbrance of the appropriation.~~

Section 50. – Reserved.

~~Section 50. – Capital program.~~

~~In conjunction with the submission of the budget, the city manager shall prepare and submit to the city council a 5-year capital program to include cost estimates, time schedules, methods of financing, and estimated annual costs of~~

~~operation and maintenance for such capital improvements. This shall be revised and extended each year depending on which capital improvements are still pending or in process of construction or acquisition.~~

Section 62. - Officers and employees.

Nothing in this Charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are city officers or employees ~~at the time the city is created.~~ However, no officer of the City shall hold, or be a candidate for, elective public office in the city while in its employment or use the authority of his or her position to secure support for, or oppose, any candidate in an election or affect the results thereof. Neither shall the mayor or any member of the city council use any promise of reward or threat of loss to encourage or coerce any officer or employee to support or contribute to any political issue, candidate, or party in any election.

Section 73. - State-shared revenues.

The City of Bonita Springs shall be entitled to participate in all revenue sharing programs of the State of Florida ~~effective on the date of incorporation. The provisions of s. 218.23(1), Florida Statutes, shall be waived for the purposes of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 2002-2003.~~ Pursuant to Chapter 99-428, Laws of Florida, and for purposes of meeting the provisions of s. 218.23(1), Florida Statutes, relating to ad valorem taxation, the millage levied by special districts may be used for an indefinite period. Initial revised population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the Bureau be unable to provide an appropriate population estimate, the Lee County Department of Community Development shall provide the estimate.