

ORDINANCE NO. 2022-011

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CHARTER OF THE CITY OF COCONUT CREEK, ARTICLE III, "CITY COMMISSION," BY AMENDING SECTION 305, "VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES;" AND ARTICLE VII, "REGISTRATION AND ELECTIONS," BY REPEALING SECTION 713, "VACANCY IN CANDIDACY FOR OFFICE," TO PROVIDE FOR CLARIFICATION REGARDING THE PROCESS FOR FILLING VACANCIES; PROVIDING FOR THE FORM OF THE BALLOT QUESTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CITY CHARTER UPON APPROVAL BY THE MAJORITY OF ELECTORS VOTING IN THE MARCH 14, 2023, MUNICIPAL ELECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission is desirous of amending portions of the Charter of the City of Coconut Creek (hereinafter "City Charter") in order to clarify the process for filling vacancies on the City Commission; and

WHEREAS, pursuant to Section 906, "Amendments to Charter," of the City Charter, the City Charter may be amended as provided by the Florida Statutes or by the City's processes established for the Charter Review Board; and

WHEREAS, pursuant to Section 166.031, Fla. Stat., the governing body of a municipality may, by ordinance, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except to the part describing its boundaries; and

WHEREAS, specifically Section 166.031(6), Fla. Stat., states, "Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death,

withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office;” and

WHEREAS, to clarify and be consistent with state law, the City seeks to combine Charter Sections 305 and 713, and require that vacancies will be filled by vote of the electors, with the procedures for such elections set forth in an ordinance within the City’s Code of Ordinances; and

WHEREAS, once approved by a majority of the members of the City Commission, this ordinance recommending Charter amendments will be placed on the March 14, 2023, Municipal Election ballot, and thus will be a legislative referendum; and

WHEREAS, pursuant to Section 166.031, Fla. Stat., said changes to the City Charter shall be effective only upon approval of this legislative referendum by a majority of the electors of the City of Coconut Creek; and

WHEREAS, the City Commission finds and determines that this legislative referendum is in the best interests of the electors within the City of Coconut Creek.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2: Charter Amendment: Section 305. That the Charter of the City of Coconut Creek, Florida, is hereby amended by amending Article III, “City Commission,” Section 305, “Vacancies; Forfeiture of Office; Filling of Vacancies,” to read and provide as follows:

Section 305. Vacancies; Forfeiture of Office; Filling of Vacancies.

- a. *Vacancies.* The office of Commissioner shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office.

- b. *Forfeiture of Office.* A Commissioner shall forfeit his/her office if he/she (1) lacks at any time during his/her term of office any qualification of the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a felony, (4) fails to attend three (3) consecutive regular meetings of the Commission without being excused by the Commission at a meeting, or (5) fails to remain ~~a resident of~~ primarily domiciled in the district from which elected for the entire term of office.
- c. *Filling of Vacancies.* A vacancy shall be filled by a person meeting all of the qualifications to hold the office of City Commissioner as said qualifications are set forth in this Charter. All vacancies on the City Commission shall be filled by vote of the majority of electors within the City of Coconut Creek at an election. The City Commission, in accordance with Section 166.031(6), Florida Statutes, as may be amended, shall by ordinance provide procedures for holding elections to fill any vacancy in office caused by death, resignation, removal from office, or forfeiture of office. Such ordinance shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, forfeiture or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office. A vacancy on the Commission shall be filled in one of the following ways:
1. ~~If a vacancy occurs three hundred and sixty-five (365) or fewer calendar days before the expiration of the term of the former Commissioner, the Commission, by majority vote of the remaining members, shall appoint a qualified person to fill the vacancy within thirty (30) days of its occurrence, unless there is an election scheduled within one hundred eighty (180) days in which case the Commission may provide for the vacancy to be filled in the next election. Said appointee shall serve until the next regular City election and be a resident qualified voter of the same district in which the vacancy has occurred. Said appointee shall fulfill the requirements of Section 301b.~~
 2. ~~If a vacancy occurs more than three hundred sixty-five (365) calendar days before the expiration of the term of the former Commissioner, an election to fill said vacancy shall be held no sooner than sixty (60) days and no later than one hundred eighty (180) days of said vacancy. The Commissioner elected to fill the vacancy shall serve for the unexpired term of office and shall be a resident qualified voter of the same district in which the vacancy has occurred.~~
- ~~d.3.~~ If the vacated Commission seat is that of the Mayor or Vice Mayor, upon filling of the vacancy by appointment or election of the new Commissioner, the Commission shall elect one of its members to hold the position(s) so vacated. In the instance that the Mayor's seat is vacated, and the Vice Mayor assumes the role as Acting Mayor during the interim in accordance with Section 302 b.1., the Commission shall elect by a majority vote an Acting Vice Mayor who shall serve until the vacancy is filled by appointment or election of the new Commissioner.

Section 3: Charter Amendment: Section 713. That the Charter of the City of Coconut Creek, Florida, is hereby amended by amending Article VII, "Registration and

Elections,” by repealing in its entirety Section 713, “Vacancy in Candidacy for Office,” as follows:

~~Section 713. Vacancy in Candidacy for Office.~~

~~The City Commission, in accordance with Section 166.031(6) Florida Statutes, shall by ordinance provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.~~

Section 4: Ballot Item. That the proposed City Charter amendments shall be placed on the ballot of the municipal election which shall be held in the City of Coconut Creek, Florida, on Tuesday, March 14, 2023.

Section 5: Notice of Election. Pursuant to the requirements of law, appropriate notice of said municipal election shall be published by the City Clerk at least thirty (30) days prior to the election on March 14, 2023. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election is to be held. Said notice shall recite that: “The complete text of the City Charter as proposed to be revised by the City Commission is available for inspection at City Hall, 4800 West Copans Road, Coconut Creek, Florida, 33063, between the hours of 7:00 a.m. and 6:00 p.m., Monday through Thursday.”

Section 6: Ballot Item Language. That the ballot question concerning the amendments of the City Charter relating to filling of vacancies, specifically amendments to Sections 305 and 713 as further described herein, shall be in the following form:

FILLING OF VACANCIES IN OFFICE AND CANDIDACY FOR CITY COMMISSION

SHALL THE CHARTER OF THE CITY OF COCONUT CREEK BE AMENDED TO PROVIDE THAT THE FILLING OF VACANCIES IN OFFICE MUST BE DONE BY MAJORITY VOTE OF CITY ELECTORS VOTING IN AN ELECTION, WITH PROCEDURES FOR HOLDING SUCH ELECTIONS AND FOR FILLING ANY VACANCY IN CANDIDACY FOR CITY COMMISSION SET FORTH IN AN ORDINANCE CODIFIED WITHIN THE CITY’S CODE OF ORDINANCES?

YES

NO

Section 7: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 8: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 9: Incorporation into City Charter. That the amendments to the City Charter as provided in this ordinance shall be incorporated into the Charter of the City of Coconut Creek pursuant to Section 166.031(2), Fla. Stat., effective upon the certification of election results issued by the Broward County Supervisor of Elections showing approval by a majority of the electors of the City of Coconut Creek that voted in the March 14, 2023, election. If approved, the City Clerk shall file this ordinance along with the certified election results with the Florida Department of State. If not approved by said voters, the Charter shall not be amended hereby.

Section 10: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 14TH DAY OF JULY, 2022.

PASSED SECOND READING THIS 25TH DAY OF AUGUST, 2022.

Joshua Rydell, Mayor

Attest:

Joseph J. Kavanagh, City Clerk

	<u>1st</u>	<u>2nd</u>
Rydell	<u>Aye</u>	<u>Aye</u>
Welch	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Aye</u>	<u>Aye</u>
Railey	<u>Aye</u>	<u>Aye</u>
Brodie	<u>Aye</u>	<u>Aye</u>