

ORDINANCE 29, 2017

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4 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM
5 BEACH GARDENS, FLORIDA, ADOPTED IN ACCORDANCE WITH
6 SECTIONS 101.161 AND 166.031, *FLORIDA STATUTES*, CALLING
7 FOR A REFERENDUM TO BE HELD ON MARCH 13, 2018,
8 PROPOSING TO THE ELECTORATE OF THE CITY THAT THE CITY
9 CHARTER BE AMENDED AT SECTION 4-1. TO PROVIDE THAT
10 COUNCIL MEMBERS SHALL BE ELECTED BY PLURALITY
11 RATHER THAN BY MAJORITY; PROVIDING THAT THE
12 REMAINDER OF THE CHARTER, AS MAY BE AMENDED BY THE
13 ELECTORATE, SHALL REMAIN IN FULL FORCE AND EFFECT AS
14 PREVIOUSLY ENACTED; PROVIDING FOR SUBMISSION OF THE
15 PROPOSED BALLOT QUESTION TO THE ELECTORS OF THE CITY;
16 SETTING FORTH THE FORM OF THE QUESTION TO BE VOTED
17 UPON AT SUCH ELECTION; PROVIDING A CONFLICTS CLAUSE, A
18 SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY;
19 PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.
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22 WHEREAS, the City Council of the City of Palm Beach Gardens directed the City
23 Attorney to review the City Charter and propose recommended changes to the City
24 Charter; and
25

26 WHEREAS, the City Council has reviewed the recommendations of the citizen
27 Charter Review Committee ("CRC"), and the City Council has determined that it would be
28 in the best interest of the City of Palm Beach Gardens to accept such recommendations;
29 and
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31 WHEREAS, the City Council has concluded that the CRC's recommendation to
32 change the vote requirement to be elected from majority to plurality and calling for a
33 referendum election in accordance with the provisions of Section 166.031, *Florida*
34 *Statutes*, for the electorate of the City of Palm Beach Gardens to consider such
35 amendment to the Charter is in the best interest of the City of Palm Beach Gardens; and
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37 WHEREAS, the City Council deems approval of this Ordinance to be in the best
38 interest of the health, safety, and welfare of the residents and citizens of the City of Palm
39 Beach Gardens and the public at large.
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42 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
43 OF PALM BEACH GARDENS, FLORIDA, that:
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1 **SECTION 1.** The proposed amendment to Section 4-1 of the City's Charter shall
 2 read as follows:

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 4 Whenever a general or special election is held to fill any elective office in the City
 5 of Palm Beach Gardens, the candidate receiving a ~~majority of the~~ highest number of
 6 votes, even if it is not a majority of the valid votes counted for that seat, shall be declared
 7 to be duly elected. However, should two (2) or more candidates tie for the highest number
 8 of valid votes received for that seat, then the candidates receiving the highest number of
 9 votes shall be declared candidates for the second or "runoff" election. Such second or
 10 "runoff" election shall be held as soon as practicable, but in no case more than sixty (60)
 11 days after the election producing the tie. In the second or "runoff" election, the council
 12 seat shall be filled by the candidate receiving the highest number of votes, even if it is not
 13 a majority of the votes counted for that seat. In the event a candidate dies, withdraws their
 14 candidacy, is disqualified, or is removed from the race and/or ballot before any election,
 15 leaving only one (1) candidate for the seat to be filled, then an election for that seat shall
 16 not be held. The remaining single candidate shall be deemed to have voted for him or
 17 herself and/or shall be elected by acclamation. ; provided that in the event no candidate
 18 for a particular elective office shall receive a majority of the votes cast for such election
 19 to fill such office, then a run-off election shall be held on the fourth Tuesday in March of
 20 the same calendar year said general election was held; and in the event a special election
 21 is held, and a run-off election is required, then said run-off election shall be held two (2)
 22 weeks from date of said original special election; provided further, that in such event only
 23 the names of the two (2) candidates having received the greatest number of votes in the
 24 general or special election for such office shall be submitted to the voters and the one of
 25 these two (2) receiving the majority number of votes in such run-off election shall be
 26 declared to be duly elected to such office; provided further, that should two (2) or more
 27 candidates receive an equal number of votes to any such office, so that it cannot be
 28 determined which two (2) had received the greatest and the next greatest number of
 29 votes, then the names of all such candidates shall be submitted at the run-off election
 30 and the candidate receiving the greatest number of votes at such election shall be
 31 declared elected to such office, regardless of whether such candidate received a majority
 32 of the votes cast to fill such office at such run-off election.

33
 34 **SECTION 2.** The Charter amendment proposed by this Ordinance shall be
 35 submitted to the electors of the City of Palm Beach Gardens, Florida, at the general
 36 municipal election to be held on the 13th day of March, 2018, in the form of the following
 37 question:

38
 39 **CITY OF PALM BEACH GARDENS REFERENDUM QUESTION NO. 4**

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 41 **SHALL THE PALM BEACH GARDENS CHARTER BE AMENDED TO**
 42 **CHANGE THE METHOD OF ELECTION FROM MAJORITY VOTE TO**
 43 **PLURALITY VOTE, SUCH THAT THE CITY COUNCIL CANDIDATE WHO**
 44 **RECEIVES THE HIGHEST NUMBER OF VOTES FOR A PARTICULAR**
 45 **COUNCIL SEAT SHALL BE DEEMED TO BE ELECTED.**
 46

1 SHALL THE ABOVE DESCRIBED QUESTION NO. 4 BE ADOPTED?

2
3 _____ YES

4
5 _____ NO

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7 **SECTION 3.** The City Clerk shall cause a notice of this election called for the
8 purpose of presenting the subject Charter revision to a vote of the electorate to be
9 published in accordance with the provisions of Section 100.342, *Florida Statutes*, at least
10 twice: once in the fifth week and once in the third week prior to the week in which the
11 referendum is to be held; provided that the first publication shall take place at least 30
12 days before the date fixed for the referendum and shall be published in a newspaper of
13 general circulation within the City.

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15 **SECTION 4.** In accordance with Section 26-11 (a) of the City Code of Ordinances,
16 the City Clerk shall cause a notice of election to be published in a newspaper of general
17 circulation within the City at one time during the fourth week and at one time in the second
18 week preceding the week in which the election is held.

19
20 **SECTION 5.** In accordance with Section 26-14 (d) of the City Code of Ordinances,
21 the City Clerk shall publish a sample ballot in a newspaper of general circulation prior to the
22 day of the election, but no more than ten days prior to the election. Such publication shall
23 be conspicuous and not be included within the legal notices and advertisements being
24 published per Chapter 50, *Florida Statutes*.

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26 **SECTION 6.** All ordinances or parts of ordinances in conflict be and the same are
27 hereby repealed.

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29 **SECTION 7.** Should any section or provision of this Ordinance or any portion
30 thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction
31 to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

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33 **SECTION 8.** Specific authority is hereby given to codify this Ordinance.

34
35 **SECTION 9.** This Ordinance shall become effective immediately upon adoption.
36 The revised language in Section 4-1 of Charter as set forth in Section 1 hereinabove shall
37 become effective as of 12:01 a.m. on March 14, 2018, if the question to be voted upon
38 provided hereinabove receives an affirmative vote of the majority of the valid votes cast
39 and counted at the election held on March 13, 2018.

PASSED this ____ day of _____, 2017, upon first reading.

PASSED AND ADOPTED this ____ day of _____, 2018, upon second and final reading.

CITY OF PALM BEACH GARDENS	FOR	AGAINST	ABSENT
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BY: _____ Maria G. Marino, Mayor	_____	_____	_____
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_____	_____	_____	_____
Mark T. Marciano, Vice Mayor			

_____	_____	_____	_____
Carl Woods, Councilmember			

_____	_____	_____	_____
Matthew Jay Lane, Councilmember			

_____	_____	_____	_____
Rachelle A. Litt, Councilmember			

ATTEST:

BY: _____
Patricia Snider, CMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: _____
R. Max Lohman, City Attorney

