

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA, SUBMITTING HOUSEKEEPING AMENDMENTS TO THE CHARTER OF THE CITY OF PEMBROKE PINES AMENDING ARTICLE III "LEGISLATURE," SECTION 3.09 "PROHIBITIONS;" AMENDING ARTICLE IV "ADMINISTRATION," SECTION 4.04 "POWERS AND DUTIES OF CITY MANAGER," SECTION 4.05 "CITY CLERK; DEPUTY CITY CLERK," SECTION 4.07 "CITY ATTORNEY," SECTION 4.12 "PROCUREMENT," SECTION 4.13 "COMMISSION AUDITOR;" AMENDING ARTICLE V "BUDGET," SECTION 5.06 "WHEN CONTRACTS AND EXPENDITURES PROHIBITED;" AMENDING ARTICLE VI "INITIATIVE AND REFERENDUM," SECTION 6.02 "COMMENCEMENT OF PROCEEDINGS," SECTION 6.03 "PETITIONS," SECTION 6.04 "PROCEDURE FOR FILING," AMENDING ARTICLE VIII, ENTITLED "GENERAL LIMITATIONS," SECTION 8.05 "CONFLICTING CHARTER AMENDMENTS;" AND AMENDING ARTICLE IX "TRANSITION SCHEDULE," SECTION 9.02 "ORDINANCES PRESERVED;"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, as amended, provides for a methodology of Charter amendments supplementary to and not in conflict with the Charter of the City of Pembroke Pines, Florida; and

WHEREAS, the Florida Attorney General has opined (See Fla. AGO 93-66 (1993)) that non-substantive or housekeeping Charter amendments may be submitted to the City Commission of the City of Pembroke Pines, Florida, without need for referendum in an ordinance format; and

{00577170.3 1956-7601851 }

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

WHEREAS, the Charter Review Board of the City of Pembroke Pines proposes included non-substantive housekeeping amendments to the City Charter; and

WHEREAS, the City Commission has held a public hearing in accordance with Florida law; and

WHEREAS, the City Commission deems the proposed amendment to the City Charter, as detailed herein, to be in the best interests of the citizens and residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, THAT:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. Article III, "Legislature," shall be revised by amending Section 3.09 entitled "Prohibitions" of the Charter of the City of Pembroke Pines, as follow:

SECTION 3.09 PROHIBITIONS.

(a) Appointment and removals. Neither the Commission nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint, but the Commission may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.

(b) Interference with administration. Except for the purpose of inquiries and investigations, the Commission or its members shall deal with City officers and

{00577170.3 1956-7601851 }

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Commission nor its members shall give orders to any such officer or employee, either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the Commission from closely scrutinizing by question and personal observation, all aspects of City government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the Commission. It is the express intent of this provision, however, that such inquiry shall not interfere directly with the ordinary municipal operations of the City, and that recommendations for change or improvement in City government operations be made through the City Manager.

(c) Holding other office. No former elected City official shall hold any compensated appointed City office or employment until one (1) year after the expiration of the term for which he was elected.

SECTION 3. Article IV, "Administration," shall be revised by amending Section 4.04 entitled "Powers and Duties of City Manager" of the Charter of the City of Pembroke Pines, as follow:

SECTION 4.04 POWERS AND DUTIES OF CITY MANAGER.

The powers and duties of the City Manager shall be:

- (a) To see that the laws and ordinances are enforced.
- (b) To advise and assist all departments that may be created by the Commission.
- (c) To attend all meetings of the Commission with the right to take part in the discussion but having no vote.
- (d) To recommend to the Commission for adoption such measures as he/she may deem necessary or expedient.
- (e) Direct and supervise the administration of all departments of the municipal government and be responsible for the maintenance of sound personnel policies and administrative practices and submit quarterly reports pertaining to this subsection to the City Commission in writing.
- (f) Approve or disapprove purchases for each department, division or office, ~~and where~~ if any bill or voucher differs from the original purchase order in any manner then the payment of such voucher or purchase order shall not be made unless previously approved by the City Manager.

{00577170.3 1956-7601851 }

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

(g) Establish working, personnel, and vacation schedules and appropriate records and reports.

(h) Approve or prescribe, in written form, the internal organization of each department and timely provide a copy of this information to each Commissioner.

(i) Assign and transfer administrative functions, powers and duties among and within departments, in writing, and timely provide a copy of this information to each Commissioner.

(j) Delegate to department heads such duties as the City Manager may deem necessary for efficient administration.

(k) The City Manager shall have the authority to appoint and discharge all Department Heads, Personnel, and Employees of the City, other than those who, by the terms and provisions of this Charter, are appointed by the City Commission, or who are appointed pursuant to any ordinance, or resolution adopted by the City Commission governing appointment and discharge of City personnel and employees and timely provide a copy of this information to each Commissioner.

(l) To perform such other duties as may be required by ordinance or resolution of the Commission.

SECTION 4. Article IV, "Administration," shall be revised by amending Section 4.05 entitled "City Clerk; Deputy City Clerk" of the Charter of the City of Pembroke Pines, as follow:

SECTION 4.05 CITY CLERK; DEPUTY CITY CLERK.

(a) The City Manager shall hire a City Clerk. The City Clerk shall give notice of Commission, City Board and special meetings to its members and the public and shall keep the journal of its proceedings which shall be a public record, and shall perform other duties as the Commission or ~~city~~City Manager may prescribe from time to time. The City Clerk shall report to the City Manager.

(b) The City Clerk shall monitor the attendance at all regular Commission, City Board and special meetings and report any failure to meet the minimum attendance standard as prescribed in Section 8.05

(c) The City Manager shall appoint one or more Deputy City Clerks in the absence of the City Clerk. During this absence, the Deputy City Clerk shall have all the powers vested in the City Clerk and who shall perform all of the duties of the City Clerk.

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

SECTION 5. Article IV, "Administration," shall be revised by amending Section 4.07 entitled "City Attorney" of the Charter of the City of Pembroke Pines, as follow:

SECTION 4.07 CITY ATTORNEY.

(a) There shall be a City Attorney of the City, appointed or removed, by an affirmative vote of at least four-fifths (4/5) of the full Commission, who shall serve as chief legal advisor to the Commission, the City Manager and all City departments, office and agencies and who shall assure that the City is represented in all legal proceedings and perform any other duties prescribed by this Charter or by ordinance.

(b) Qualifications: The City Attorney shall have been admitted to practice in the State of Florida for four (4) years, with not less than two (2) of those years in the practice of law for municipal or county government.

(c) Duties: The City Attorney or his or her designee shall:

(1) Be notified of and shall attend all regular and special meetings of the City Commission.

(2) Act as the legal advisor to and counselor for the municipality, and all its officers in matters relating to their official duties.

(3) Prepare all contracts, bonds and other instruments, in writing, in which the municipality is concerned, and on each instrument, the City attorney or his/her/its designee shall endorse on each his or her/their approval of the form and correctness thereof; and, no ~~on each his or her/their approval of the form and correctness thereof; and, no~~ No contract with the municipality shall take effect until his or her/their approval is so endorsed thereon.

(4) Prosecute and defend, on behalf of the City, all complaints, suits, and controversies in which the City is a party unless otherwise instructed by the City Commission.

(5) When so requested, furnish the Commission, Mayor or City Manager, his or her opinion on any question of law involving their respective powers and duties.

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

(6) Perform such other professional duties as may be required by him/her by resolution of the Commission or as prescribed for the City Attorneys in general or special laws of the State, including any rules and regulations of the Florida Bar, which are not inconsistent with this Charter. The City Attorney is obliged to periodically and in a timely manner inform the Commission of the status of any pending litigation.

(7) The Commission shall determine the terms and conditions, and compensation of the City Attorney's employment in a written contract.

SECTION 6. Article IV, "Administration," shall be revised by amending Section 4.12 entitled "Procurement" of the Charter of the City of Pembroke Pines, as follow:

SECTION 4.12 PROCUREMENT.

(a) Pursuant to the requirements of this Charter and ordinances, the City Manager shall contract for, purchase, store and distribute all supplies, materials and equipment required by any office, department, or agency of the City government. Said purchases shall be made pursuant to the following procedures:

(1) No goods, supplies, materials or services for City purposes or use shall be purchased when the amount to be paid therefore by the City shall exceed that amount the City Commission sets by ordinance for which the City shall require sealed bids, unless notice thereof shall be advertised as provided ordinance. The provision of this section shall not apply where purchases are made from any agency, department or bureau of the United States Government, State of Florida, or any of its political divisions or municipalities. The City Commission may contract with other government agencies for joint, cooperative or pooled purchasing of supplies, goods, materials or services for its present or future needs, and bidding shall not be required for purchases made by this method.

(i) If the City Manager shall determine that, based upon specific conditions and circumstances, ~~that~~ an emergency exists in regards to the purchases of any commodity, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the City, then the City Manager shall file with the City Commission a statement under oath certifying the conditions and circumstances.

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

(ii) Purchases made from any agency, department or bureau of the United States Government, State of Florida, or any of its political subdivisions or municipalities are excepted from bid requirements.

(iii) Any contract with other government agencies for joint, cooperative, or pooled purchasing of commodities.

(iv) Commodities, services, and supplies available only from a single source may be excepted from the bid requirements upon the filing by the City Manager of a certification of conditions and circumstances with the City Commission, if, subsequent thereto, the City Commission, authorizes the exceptions in writing.

(2) No contract shall be made by the City for the purchase, lease, or renting of materials and/or equipment for use in any public work or improvement, when the amount to be paid therefore by the City shall exceed that amount for sealed bids prescribed by Florida Statute 180.24, as may be amended from time to time, unless notice or advertisement for bids upon the same shall be published in accordance with the provisions of this Charter.

(3) Requirements of advertising/notice.

(i) The notice required by Section 4.12(a) ~~Paragraph 1 of this Section~~ may refer to general terms, as to the extent and nature of the improvement and may identify the same by the short designation indicated in the resolution authorizing such local improvement, and by reference to the plans and specifications on file in the office of the City Clerk. If said resolution shall have given two (2) or more alternative descriptions of the improvement as to its material, nature, character and size, and if the Commission shall not have theretofore determined upon a definite description, the notice may call for bids upon each of such descriptions.

(ii) Said notice shall state the conditions of payments.

(iii) Bids may be requested for the work as a whole or for any part thereof separately, ~~and~~ Bids may be asked for any one or more improvements authorized by the same or different resolutions, but aAny bid covering work upon more than one improvement shall be in such form as to permit a separation of costs as to each improvement.

(iv) The City Commission may, by ordinance, provide that a bid must be accompanied by a bid deposit. The process for submitting a bid deposit may be specified by ordinance.

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

(4) When it becomes necessary in the opinion of the Director of Public Services or City Manager to make alterations or modifications in any executory contract for any public work or improvement, such alterations or specifications shall be made only as authorized by the Commission and approved by the City Attorney, upon the written recommendations of the City Manager. No such alteration shall be valid unless the price to be paid for the work or material, or both, under the altered or modified contract shall have been agreed upon in writing and signed by the Commission or the City Manager, as provided by ordinance.

(5) The City Commission may, by ordinance, specify the criteria to be used for the City to award contracts for public work or improvement and purchases received under sections 2 and 3. The City Commission may for good cause reject any bid even, though it may be the lowest.

(6) In the event all bids received are rejected, the Commission shall direct the City Manager to re-advertise or may determine, in the case of public work or improvement, to do the work by City forces without contract. All advertisements shall contain a reservation of the rights contained in this section.

(7) The Commission shall reject any bid received from any individual, firm, corporation, or business enterprise in which any ~~city~~City elected official is currently employed full time in or by said enterprise.

(8) Contracts for public works or improvements or purchases shall be attested by the City Clerk, and signed by the Mayor or City Manager after approval by the City Attorney, and the City Commission, where required.

SECTION 7. Article IV, "Administration," shall be revised by amending Section 4.13 entitled "Commission Auditor" of the Charter of the City of Pembroke Pines, as follow:

SECTION 4.13 COMMISSION AUDITOR.

The City Commission shall appoint or retain, by an affirmative vote of at least four-fifths (4/5) of the full Commission, a charter officer of the City who shall have the title of Commission Auditor. The Commission Auditor shall serve at the pleasure of the Commission. The Commission Auditor shall submit an Annual Audit

{00577170.3 1956-7601851 }

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

Plan at the beginning of each fiscal year which shall be adopted by a majority vote of the City Commission and which may be amended, from time to time, by a majority vote of the City Commission. The Commission Auditor shall, from time to time, perform independent and objective audits or reviews of financial, compliance and operational activities of the ~~city~~City and the ~~city's~~City's contractors, licensees and franchisees. Audits or reviews performed by the Commission Auditor shall analyze and evaluate financial management systems and operational controls and procedures of the city to develop recommended policies and procedures. The Commission Auditor shall also respond to questions by the City Commission or the City Manager and perform such other duties as may be imposed or required by ordinance, resolution or direction of a majority of the City Commission. In furtherance of their duties and responsibilities under this section, the Commission Auditor shall have unrestricted access to the City's records and staff. Nothing contained in this section shall adversely impact the position of the City Manager, as set forth in Article IV of the City Charter.

SECTION 8. Article V, "Budget," shall be revised by amending Section 5.06 entitled "When Contracts and Expenditures Prohibited" of the Charter of the City of Pembroke Pines, as follow:

SECTION 5.06 WHEN CONTRACTS AND EXPENDITURES PROHIBITED.

No officer, department, or agency shall, during the budget year expend or contract to expend any money or voluntarily incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditures pursuant to this Charter. Nothing in this section ~~contained~~, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made when such contract is permitted by law.

SECTION 9. Article VI, "Initiative and Referendum," shall be revised by amending Section 6.02 entitled "Commencement of Proceedings" of the Charter of the City of Pembroke Pines, as follow:

SECTION 6.02 COMMENCEMENT OF PROCEEDINGS.

{00577170.3 1956-7601851 }

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

Any ten (10) qualified voters may commence initiative or referendum proceedings by filing with the City Clerk, or other official designated by the Commission, an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Clerk or other official designated by the Commission may, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

SECTION 10. Article VI, "Initiative and Referendum," shall be revised by amending Section 6.03 entitled "Petitions" of the Charter of the City of Pembroke Pines, as follow:

SECTION 6.03 PETITIONS.

(a) Number of signatures. Initiative and referendum petitions must be signed by qualified voters of the City equal in number to at least ten (10%) percent of the total number of qualified voters registered to vote at the last regular ~~city~~City election.

(b) Form and Content. All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain, or have attached thereto, throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signature of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Time for Filing Referendum Petitions. Referendum petitions must be filed within sixty (60) days after adoption by the Commission of the ordinance sought to be reconsidered.

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

SECTION 11. Article VI, “Initiative and Referendum,” shall be revised by amending Section 6.04 entitled “Procedure for Filing” of the Charter of the City of Pembroke Pines, as follow:

SECTION 6.04 PROCEDURE FOR FILING.

(a) Certificate of Clerk; Amendment. Within twenty (20) days after the initiative petition is filed and five (5) days for a referendum petition, the City Clerk, or other official designated by the Commission, shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners’ committee by registered mail. Grounds for insufficiency are only those specified in subsection 6.03. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners’ committee files a notice of intention to amend it with the Clerk or other official designated by the Commission within two (2) days after receiving the copy of the certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (b) and (c) of Section 6.03, and within five (5) days after it is filed with the Clerk or other official designated by the Commission, shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners’ committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient or if a petition or amended petition is certified insufficient and the petitioners’ committee does not elect to amend or request Commission review under subsection (b) of this section within the time required, the clerk or other official designated by the Commission shall promptly present his certificate to the Commission and the certificate shall then be a final determination as to the sufficiency of the petition.

(b) Commission Review. If a petition has been certified insufficient and the petitioners’ committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) days after receiving the copy of such certificate, file a request that it be reviewed by the Commission. The Commission shall review the certificate at its next meeting following the filing of such request and approve or disapprove it, and the Commission’s determination shall then be a final determination as to the sufficiency of the petition.

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

SECTION 12. Article VIII, "General Limitations," shall be revised by amending Section 8.05 entitled "Conflicting Charter Amendments" of the Charter of the City of Pembroke Pines, as follow:

SECTION 8.05 CONFLICTING CHARTER AMENDMENTS.

In the event that a Charter Amendment proposed by the Charter Review Board is on the ballot at the same election in which a Charter Amendment is proposed pursuant to Florida Statutes Section 166.031 and the results of the elections on those Charter Amendments creates a conflict between the two, then ~~in that event~~ they shall go into effect in respect to such of their provisions as are not in conflict and the one receiving the highest affirmative vote shall prevail insofar as their provisions conflict.

SECTION 13. Article IX, "Transition Schedule," shall be revised by amending Section 9.02 entitled "Ordinances Preserved" of the Charter of the City of Pembroke Pines, as follow:

SECTION 9.02 ORDINANCES PRESERVED.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent ~~with it~~, shall remain in force until repealed or changed as provided herein.

SECTION 14. Codification. It is the intention of the City Commission of the City of Pembroke Pines that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Pembroke Pines, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article," or such other word or phrase in order to accomplish such intention. It is also the intention of the City Commission that the codification of this Ordinance be updated as appropriate to reconcile with the

{00577170.3 1956-7601851 }

PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

outcome of the City special elections to be conducted with the March 11, 2025 municipal election.

SECTION 15. Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 16. Severability. Should any section, provision, paragraph, sentence, clause or word of this Ordinance or portion hereof be held or declared by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall be considered as eliminated and shall not affect the validity of the remaining portions or applications of this Ordinance.

SECTION 17. Effective Date. This Ordinance shall become effective upon adoption.

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PROPOSED ORDINANCE 2024-17

ORDINANCE NO. _____

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
PEMBROKE PINES, FLORIDA, ON THE FIRST READING, THIS ___ DAY OF
_____, 2024.**

**PASSED ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE
PINES, FLORIDA, ON THE SECOND AND FINAL READING, THIS ___ DAY OF
_____, 2024.**

CITY OF PEMBROKE PINES, FLORIDA

ATTEST: By: _____
MAYOR ANGELO CASTILLO

DEBRA ROGERS, CITY CLERK

CASTILLO _____

APPROVED AS TO FORM: GOOD _____

HERNANDEZ _____

RODRIGUEZ _____

OFFICE OF THE CITY ATTORNEY

SCHWARTZ _____