

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, PROVIDING FOR THE SUBMISSION TO THE ELECTORS THE PROPOSED AMENDMENT TO THE CITY CHARTER, PURSUANT TO THE COMPREHENSIVE REVIEW AND RECOMMENDATIONS OF THE CHARTER REVIEW ADVISORY BOARD, AS SUBSEQUENTLY REVIEWED, REVISED AND APPROVED FOR SUBMITTAL BY THE CITY COUNCIL, IN ACCORDANCE WITH SECTION 166.031, FLORIDA STATUTES; SUBMITTING PROPOSED CHARTER AMENDMENT CONCERNING NON-INTERFERENCE CLAUSE; AND CALLING A SPECIAL ELECTION ON THE PROPOSED AMENDMENT TO THE CITY CHARTER TO BE HELD IN CONJUNCTION WITH THE REGULAR CITY COUNCIL ELECTION ON TUESDAY, THE 12TH DAY OF MARCH, 2019; PROVIDING NOTICE OF SPECIAL ELECTION; PROVIDING FOR BALLOTING AND ELECTION PROCEDURES; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to the comprehensive review and recommendations of the City's Charter Review Advisory Board and subsequent City Council review, the City Council has determined that certain amendments (the "Charter Amendments") to the City Charter should be considered for adoption , as provided herein; and

**WHEREAS**, pursuant to Section 166.031, Florida Statutes, as applicable, the City Council is required to submit Charter Amendments to the electors of the City for approval or rejection.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals Adopted.** That the above –stated recitals are hereby confirmed and adopted.

**Section 2. Charter Amendments.** That pursuant to Section 166.031, Florida Statutes, and subject to the approval of the electors of the City as provided in Section 8 below, the City Charter of the City of Riviera Beach, Florida, is hereby amended by amending the City Charter by revising or creating the specific Charter text provisions as set forth below in this Section 2 of this Ordinance, to read, as follows: <sup>1</sup>

**That Article I “City and Powers” of the City Charter is hereby amended by creating and adopting a new paragraph (b) “ Non- Interference with Administration”, of Section 5 “Powers of the City”, to read, as follows:**

**Section 5. - Powers of the city; Non- Interference with Administration**

(a) Powers. To the fullest extent authorized by Article VIII, Section (2) (b) of the Florida Constitution and laws implementing the municipal home rule powers, the City of Riviera Beach shall have all governmental, corporate, and proprietary powers possible for a city to have under the constitution and laws of this state in order to conduct municipal government, perform municipal functions, and render municipal services, and shall possess all other home rule powers. These powers shall be available as fully and completely as though they were specifically enumerated in this Charter, unless prohibited by the provisions of this Charter. Except as otherwise provided by this Charter and ordinances adopted by the city council pursuant to authority provided herein or by applicable law, all powers of the city and the determination of all matters of policy shall be vested in the city council.

(b) Interference with administration. Except for the purpose of inquiries and investigations made in good faith, the Mayor, Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor, City Council nor its members shall give orders to any such officer or employee, either publicly or privately. This provision shall not prohibit advising appropriate City personnel of the need for assistance with City assigned computers or equipment. It is the express intent of this Charter provision that recommendations or suggestions for improvement in City government operations by individual Council Members or the Mayor be made solely to and through the City Manager. The Mayor and Council Members may discuss with the City Manager any matter of City business and may notify the City Manager of problems; however, no individual Council Member or the Mayor shall give orders to the City Manager. Any such action taken in contravention of this restriction shall be malfeasance

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<sup>1</sup> Proposed additions to existing City Charter text are shown by underline; proposed deletions from existing City Charter text are shown by ~~striketrough~~.

within the meaning of Section 112.51, Florida Statutes. However, a malfeasance shall not be found to exist under this Charter provision unless due process, including notice and an opportunity to be heard, is first provided to the alleged violator in accordance with procedures established by City Ordinance.

**Section 3. Election Called.** That a special election is hereby called, to be held on Tuesday, the 12<sup>th</sup> day of March, 2019, in conjunction with the City Council regular election and the Uniform Municipal Election, to present to the qualified electors of the City of Riviera Beach, the ballot question provided in Section 4 of this Ordinance.

**Section 4. Form of Ballot.**

A. That the form of ballot for the Charter Amendment provided for in Section 2 of this Ordinance shall be substantially, as follows:

**PROHIBITION OF INTERFERENCE WITH ADMINISTRATION**

It is proposed that the City Charter be amended to create a new provision which prohibits the Mayor and Council or its members from giving orders to city employees who are under the supervision of the City Manager and prohibits the Mayor or an individual Council Member from giving orders to the City Manager.

Shall the Charter Amendment be adopted?

YES [ ]

NO [ ]

B. That the form of ballot set forth above may be revised by City Council Resolution. Further, the City Clerk may revise the positioning or order of ballot items and shall number this and any other charter amendment ballot measures which are submitted at the same election.

**Section 5. Balloting.**

- A. That balloting shall be conducted on Tuesday, March 12, 2019, between the hours of 7:00 A.M. and 7:00 P.M. at the regular polling places provided for City elections or as otherwise provided by law. Absentee balloting (voting by mail) shall be available as authorized by law. All qualified City electors who are timely registered in accordance with law shall be entitled to vote.
- B. That the City Clerk is authorized to obtain any necessary election administration services from the Palm Beach County Supervisor of Elections. The County registration books shall remain open at the Office of the County Supervisor of Elections until the date at which date the registration books shall close in accordance with the provisions of the general election laws. The City Clerk and the County Supervisor of Elections are hereby authorized to take all appropriate action necessary to carry into effect and accomplish the electoral provisions of this Ordinance. This special election shall be canvassed pursuant to City Code Section 5-11, unless otherwise provided by law.
- C. That the City Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

**Section 6. Notice of Special Election.**

- A. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the City at least 30 days prior to said election, the first publication to be in the fifth week

prior to the election (to-wit: during the week commencing Sunday, February 3, 2019 ), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, February 17, 2019 ), and shall be in substantially the following form:

#### "NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA (THE "CITY") A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE CITY ON TUESDAY, THE 12TH DAY OF MARCH, 2019, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., IN CONJUNCTION WITH THE REGULAR CITY COUNCIL ELECTION, AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY FOR APPROVAL OR REJECTION.

That certain proposed amendment to the City Charter, which proposal is commonly referred to by the following ballot title:

#### **PROHIBITION OF INTERFERENCE WITH ADMINISTRATION**

**Polling Place information and the full text of the proposed charter amendments and the enabling ordinance may be obtained from the City Clerk's Office located at 600 West Blue Heron Boulevard, Riviera Beach, Florida 33404.**

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\_\_\_\_\_  
**CLAUDENE L. ANTHONY, CMC**  
**CITY CLERK**

B. That the City Clerk is authorized to use a consolidated Notice Of Special Election for this and any other Charter Amendments which are presented at the same election.

**Section 7. Copies.** That copies of this Ordinance proposing the Charter Amendment is on file at the office of the City Clerk located at 600 West Blue Heron Boulevard, Riviera Beach, Florida 33404 and are available for public inspection during regular business hours.

**Section 8. Effectiveness.**

- A. That the Charter Amendment provided for in Section 2 above shall become effective if the majority of the qualified electors voting on the specific Charter Amendment (as presented by the ballot measure set forth in Section 4) vote for its adoption, and it shall be considered adopted and effective upon certification of the election results.
- B. That following adoption of the Charter Amendment, the City Clerk shall incorporate the adopted Charter Amendment into the City Charter and shall file the revised City Charter with the Florida Department of State as provided by Section 166.031, Florida Statutes.
- C. That the City Attorney is authorized to revise the Charter to the extent necessary to assure that any amendments adopted conform to one another and are properly included in the publication of the revised City Charter. Further, that in the event that some, but not all, of the Charter amendments submitted at the same election are approved by the electors, conforming amendments shall be deemed to be adopted and the City Attorney is authorized to reflect and implement such revisions of the Charter, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions.

If conflicting Charter amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

**Section 9. Inclusion in The Charter.** That subject to the requirements of Section 8 above, it is the intention of the City Council and it is hereby provided that the Charter Amendment shall become and be made a part of the Charter of the City of Riviera Beach; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

**Section 10. Severability.** That the provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 11. Conflicts.** That in the event that the provisions of this ordinance conflict with any other City ordinance, the provisions of this ordinance shall prevail to the extent of any such conflict.

**Section 12. Effective Date of Ordinance.** That this Ordinance shall become effective immediately upon adoption on second reading.

**PASSED and APPROVED** on first reading this 5th day of **December**, 2018.

**PASSED and ADOPTED** on second and final reading this 19th day of **December**, 2018.

**APPROVED:**

\_\_\_\_\_  
**THOMAS A. MASTERS**  
**MAYOR**

\_\_\_\_\_  
**TONYA DAVIS JOHNSON**  
**CHAIRPERSON**

**ATTEST:**

\_\_\_\_\_  
**LYNNE L. HUBBARD**  
**CHAIR PRO -TEM**

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**CLAUDENE L. ANTHONY, CMC**  
**CITY CLERK**

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**KASHAMBA L. MILLER-ANDERSON**  
**COUNCILPERSON**

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**DR. JULIA A. BOTEL**  
**COUNCILPERSON**

\_\_\_\_\_  
**TERENCE D. DAVIS**  
**COUNCILPERSON**

**1<sup>ST</sup> READING**

**MOTIONED BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**2<sup>ND</sup> & FINAL READING**

**MOTIONED BY:** \_\_\_\_\_

**SECONDED BY:** \_\_\_\_\_

**T. DAVIS JOHNSON** \_\_\_\_\_

**L. HUBBARD** \_\_\_\_\_

**K. MILLER-ANDERSON** \_\_\_\_\_

**J. BOTEL** \_\_\_\_\_

**T. DAVIS** \_\_\_\_\_

**T. DAVIS JOHNSON** \_\_\_\_\_

**L. HUBBARD** \_\_\_\_\_

**K. MILLER-ANDERSON** \_\_\_\_\_

**J. BOTEL** \_\_\_\_\_

**T. DAVIS** \_\_\_\_\_



**Reviewed as to Legal Sufficiency:**

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**ANDREW DEGRAFFENREIDT  
CITY ATTORNEY**

**DATE:** \_\_\_\_\_

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**DAVID M. WOLPIN  
SPECIAL LEGAL COUNSEL TO  
CHARTER REVIEW ADVISORY BOARD**