

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 8.01 OF THE KEY WEST CHARTER PROPOSING THAT SECTION 3.10 OF THE KEY WEST CHARTER BE AMENDED TO ELIMINATE THE REQUIREMENT FOR THE CITY CLERK TO ISSUE BLANK PETITIONS AFTER A VOTER-INITIATED REFERENDUM OR ORDINANCE IS FILED; TO ELIMINATE REFERENCES TO SPECIFIC GENDER; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Florida Statutes Section 166.031 and Key West Charter Section 8.01 provide the City Commission with the authority to propose by ordinance a Charter amendment, and;

WHEREAS, the City shall follow Florida Statutes Section 100.342 concerning notice of a referendum and Florida Statutes Section 101.161 concerning preparation of the referendum ballot, and;

WHEREAS, section 3.10 of the City Charter for the City of Key West is a provision providing for the process by which qualified voters can initiate a referendum or ordinance, and;

WHEREAS, section 3.10 contains language that makes references to specific genders, and;

WHEREAS, The City Charter and District Boundary Committee voted to make a recommendation that Section 3.10 of

the city charter be amended to eliminate the requirement that the City Clerk issue blank petitions to any group of qualified voters that are organized to initiate a referendum or ordinance, and also amend references of specific genders to gender neutral language, and;

WHEREAS, the City Commission desires that the proposed referendum appear on the Primary Election ballot of August 23, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That an amendment to Key West Charter section 3.10 shall hereby be presented as a referendum to the voters of Key West. The question appearing on the ballot shall have the following title: "Referendum - Amendment to Sec. 3.10 of the city charter to eliminate the requirement that the City Clerk issue blank petitions to any group of qualified voters that are organized to initiate a referendum or ordinance and amend language regarding specific genders to gender neutral references." The question appearing on the ballot shall be worded as follows:

“Should the city charter be amended to eliminate the requirement that the City Clerk issue blank petitions at the petitioner’s expense to any group of qualified voters that are organized to initiate a referendum or ordinance and amend language regarding specific genders to gender neutral references?”

YES

NO

Section 2: In the event of the passage of the proposed Charter amendment set forth in section 1, above, Section 3.10 of the Key West Charter shall be amended as follows:

Sec. 3.10 Power of The Voters to Propose Ordinances;
Initiative and Referendum

- (1) (a) *Initiative.* The qualified voters of the city shall have power to propose ordinances to the commission and, if the commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city

election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(b) *Referendum*. The qualified voters of the city shall have power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a city election, provided that such power shall not extend to the budget or capital program or any ordinance relating to appropriation of money, levy of taxes or salaries of city officers or employees.

(2) Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the city clerk 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 shall issue the appropriate petition blanks to the petitioners' committee at the committee's expense.~~

(3) (a) Initiative and referendum petitions scheduled for a regular election 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 election. Initiative and referendum petitions scheduled for a special election must be signed by qualified voters of the city equal in number to at least twenty percent (20%) of the total number of qualified voters registered to vote in the last regular city election.

(b) All papers of a petition shall be uniform in size and style and shall be assembled as one (1) 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

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that ~~he~~ they personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in ~~his~~ their presence, that ~~he believes~~ they believe 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) Referendum petitions must be filed within thirty (30) days after adoption by the commission of the ordinance sought to be reconsidered.

(e) Referendum and initiative petitions seeking a special municipal election under subsection (3)(a) shall be titled "Proposed Special Municipal Election." Immediately after the title, the petition shall state the following: "By signing this petition, I am requesting that a special election be held for this question, instead of the scheduling of this question for the next general municipal or statewide election. I understand that the additional cost to the City

of Key West to hold such a special election is anticipated to be \$ [insert amount] , as determined by the city clerk."

- (4) (a) Within twenty (20) days after the initiative petition is filed and five (5) days for a referendum petition, the city clerk 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 certified mail. Grounds for insufficiency are only those specified in subsection (3). 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 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 (3) of section 3.10, and within five (5) days after it is filed the clerk 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 certified 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 shall promptly present his~~ their certificate to the commission and the certificate shall then be a final determination as to the sufficiency of the petition).

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.

(5) When a referendum petition is filed with the city clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(a) There is final determination of insufficiency of the petition, or;

(b) The petitioners' committee withdraws the petition, or;

- (c) The commission repeals the ordinance; or;
- (d) After a vote of the city on the ordinance has been certified.
- (6) (a) When an initiative or referendum petition has been finally determined sufficient, the commission shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If the commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the voters of the city.
- (b) The vote of the city on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from the date that the petition was determined sufficient. If no regular city election is to be held within the period described in this subsection, the commission shall provide for a special election, except that the commission may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- (c) An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day

scheduled for a vote of the city by filing with the city clerk or other official designated by the commission a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(7) (a) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of ~~7~~ affirmative votes shall prevail to the extent of such conflict. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

(b) If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 3: The City Clerk is hereby authorized and instructed to take all necessary and proper action to place the referendum question set forth in Section 1, above, on the

Primary Election ballot of August 23, 2022, and to provide notice of the referendum election as provided by law.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2022.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2022.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2022.

Filed with the Clerk _____, 2022.

Mayor Teri Johnston _____

Vice Mayor Sam Kaufman _____

Commissioner Gregory Davila _____

Commissioner Mary Lou Hoover _____

Commissioner Clayton Lopez _____

Commissioner Billy Wardlow _____

Commissioner Jimmy Weekley _____

TERI JOHNSTON, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK