

ORDINANCE NO. 2023- 28

**CITY OF POMPANO BEACH
Broward County, Florida**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.2203., "ZONING BOARD OF APPEALS," TO PROVIDE FOR ADDITIONAL ALTERNATE MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.2203., "Zoning Board of Appeals," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is amended to read as follows:

155.2203. ZONING BOARD OF APPEALS (ZBA)

A. Establishment

The Zoning Board of Appeals (ZBA) is hereby established in accordance with state law.

...

C. Membership, Appointment, and Terms of Office

1. Membership and Appointment

- a. The ZBA shall consist of six regular voting members and ~~three~~ six alternate members, ~~appointed by resolution of the City Commission as a whole.~~
- b. ~~Appointed~~ One regular voting members ~~shall include~~ and one alternate member shall be nominated by the Mayor and one regular voting member and one alternate member shall be nominated by each City Commissioner from among residents of the City Commissioner's district—provided, however, that a Commissioner may nominate a person who does not reside in the City Commissioner's district on determining such person would better serve the public interest. All such nominees shall be appointed by resolution of the City Commission as a whole, by a majority vote.
- ~~c. Alternate members shall be appointed by the City Commission as a whole.~~
- ~~d.~~ Each regular voting member and alternate member shall be a resident of the city.
- ~~e.~~ Regular voting members and alternate members shall serve without compensation.

2. Terms

- a. Regular voting members and alternate members of the ZBA shall be appointed for a term which shall run concurrently with the term of the member of the City Commission who appointed them.
- ~~b. Alternate members shall be appointed for three year, concurrent terms.~~
- ~~e.~~ Regular voting members and alternate members shall continue to serve until their successors are appointed.

3. Alternate Members

The Chair or staff designee of the ZBA shall be authorized to assign one of the ~~three~~ six alternate members to serve as a substitute for a regular voting member who is temporarily absent or disqualified, in accordance with the following:

- a. The Chair or staff designee shall rotate assignments among the alternate members unless the unavailability of alternate members makes such rotation impossible.

- b. No alternate member may serve as a substitute member for the same regular voting member for a period of more than three consecutive months.
- c. No more than ~~two~~ three alternate members may serve as substitute members at any one time.

...

5. Vacancies

- a. _____ Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only; ~~in accordance with the following:~~
- ab. A vacancy in the term of a regular voting member or alternate member shall be filled by the City Commissioner in whose district the appointment originated, with approval by resolution of the City Commission.
- b. ~~A vacancy in the term of an alternate member shall be filled by the City Commission as a whole.~~

...

SECTION 2. If any provision of this Ordinance or its application to any person this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 10th day of January, 2023.

PASSED SECOND READING this 24th day of January, 2023.

DocuSigned by:

Rex Hardin

502CB780EB3F480...

REX HARDIN, MAYOR

ATTEST:

DocuSigned by:

Kervin Alfred

D1C913A8ED334CA...

KERVIN ALFRED, CITY CLERK

JES:MEB/jrm
1/11/23
L:ord/ch155/2023-56

DocuSigned by:



2012-64, passed 9-11-12; Am. Ord. [2013-32](#), passed 12-11-12; Am. Ord. [2013-43](#), passed 2-26-13)

155.2203. ZONING BOARD OF APPEALS (ZBA)

A. Establishment

The Zoning Board of Appeals (ZBA) is hereby established in accordance with state law.

B. Powers and Duties

The ZBA shall have the following powers and duties under this Code:

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Special Exception (Sec. [155.2406](#));
- b. Major Temporary Use Permit (Sec. [155.2412.C](#));
- c. Interim Use Permit (Sec. [155.2415](#));
- d. Variance (Sec. [155.2420](#)); and
- e. Appeal of a decision of the Development Services Director on an application for an Interpretation (Sec. [155.2424](#)).

2. Other Powers and Duties

- a. To review and decide appeals of relating to regulations in Section [100.40](#) (Movable Fixtures in the Public Right-of-Way) of the Code of Ordinances , in accordance with procedures and standards in that section;
- b. To review and decide requests for variances relating to regulations in [Chapter 151](#) (Beaches and Waterways) of the Code of Ordinances , in accordance with procedures and standards in that chapter;
- c. To review and decide requests for variances and appeals relating to floodplain management regulations in, and actions authorized by, [Chapter 152](#) (Buildings) of the Code of Ordinances , in accordance with procedures and standards in that chapter; and
- d. To carry out any other powers and duties delegated to it by the City Commission, consistent with state law.

C. Membership, Appointment, and Terms of Office

1. Membership and Appointment

- a. The ZBA shall consist of six regular voting members and three alternate members, appointed by resolution of the City Commission as a whole.
- b. Appointed regular voting members shall include one member nominated by the Mayor and one member nominated by each City Commissioner from among residents of the City Commissioner's district—provided, however, that a Commissioner may nominate a person who does not reside in the City Commissioner's district on determining such person would better serve the public interest.
- c. Alternate members shall be appointed by the City Commission as a whole.
- d. Each regular voting member and alternate member shall be a resident of the city.
- e. Regular voting members and alternate members shall serve without compensation.

2. Terms

- a. Regular voting members of the ZBA shall be appointed for a term which shall run concurrently with the term of the member of the City Commission who appointed them.
- b. Alternate members shall be appointed for three-year, concurrent terms.
- c. Regular voting members and alternate members shall continue to serve until their successors are appointed.

3. Alternate Members

The Chair of the ZBA shall be authorized to assign one of the three alternate members to serve as a substitute for a regular voting member who is temporarily absent or disqualified, in accordance with the following:

- a. The Chair shall rotate assignments among the alternate members unless the unavailability of alternate members makes such rotation impossible.
- b. No alternate member may serve as a substitute member for a period of more than three months.
- c. No more than two alternate members may serve as substitute members at any one time.
- d. No alternate member may take action as a substitute member unless the Chair first announces assignment of that role and the assignment is recorded in the official minutes of the meeting.
- e. When substituting for regular voting members, alternate members shall have the same powers and duties as the regular voting member they replace.



4. Removal and Replacement; Attendance

a. Removal for Good Cause

The City Commission may, by majority vote of a quorum present, remove and replace any member of the ZBA at any time for good cause, including, but not limited to, poor attendance (See subsection b below.), lack of participation, unfitness, malfeasance, and conflict of interest (See Section [155.2203.H.](#)). Any allegation of cause for removal shall be in writing, and the City Commission shall hold a public hearing on such an allegation before taking action to remove a board member.

b. Removal for Poor Attendance

Any member of the ZBA who is absent from three consecutive regularly scheduled board meetings or more than 50 percent of regularly scheduled board meetings held within a calendar year shall be removed from the board by the City Commission in accordance with subsection a above. The Chair of the ZBA or the Development Services Director shall notify the Mayor and City Commission if a member qualifies for removal under this subsection.

5. Vacancies

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only, in accordance with the following:

- a. A vacancy in the term of a regular voting member shall be filled by the City Commissioner in whose district the appointment originated.
- b. A vacancy in the term of an alternate member shall be filled by the City Commission as a whole.

D. Chair and Vice-Chair

- 1. The ZBA shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term. The Chair and Vice-Chair may be elected to successive terms without limitation.
- 2. The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the ZBA shall vote to determine who shall serve as acting Chair for the meeting.

E. Staff

The Development Services Director shall serve as the professional staff liaison to the ZBA, provide it with administrative support, and serve as its Secretary, notifying board members of all meetings and keeping the minutes of the meetings.

F. Meetings

1. Schedule

The ZBA shall adopt a schedule establishing the date, time, and location of regular meetings, provided that the ZBA shall meet at least once in a calendar month. The Chair may adjourn a regular meeting on determining that there are no agenda items for consideration, and may call special meetings.

2. Official Record

The ZBA shall keep a written record of its recommendations, transactions, findings, and determinations. Such record shall include minutes of meetings in accordance with state law (Sec. 286.011, Fla. Stat.) and shall be a public record and filed with the Development Services Director.

3. Notice of Meetings

a. The Development Services Director shall provide notice of ZBA meetings to each board member at least 48 hours before the meeting.

b. Notice of all ZBA meetings and public hearings shall be provided in accordance with state law and the public hearing requirements in Section [155.2305.C](#), Public Hearing Notice, as appropriate.

4. Open Meetings

All meetings of the ZBA shall be open to the public.

5. Procedure

In conducting its meetings, the ZBA shall follow rules of procedure adopted in accordance with Section [155.2203.1](#), Rules of Procedure.

G. Quorum and Necessary Vote

1. Quorum

Five members of the ZBA shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

2. Voting

The concurring vote of five members of the ZBA shall be necessary to approve a Special Exception, Major Temporary Use Permit, or Interim Use Permit, grant any Variance, or approve any appeal reversing or modifying a decision. An affirmative vote of the majority of board members present and constituting a quorum shall be required for all other decisions.



H. Disqualification from Participation and Voting Based on Conflict of Interest

1. A member of the ZBA shall not participate in the review of, or vote on, an application for a development permit if the action proposed by the application creates a conflict of interest—that is, if the action proposed by the application would inure to the special private gain or loss of the member, any principal or corporation (or a parent organization or subsidiary of such corporation) that employs or otherwise retains the services of the member, or a close relative (e.g., parent, sibling, spouse, or parent- or sibling-in-law) or business associate of the member.

2. If an objection is raised to a board member's participation in a matter based on a conflict of interest (as defined in subsection 1 above), and that member does not recuse himself or herself, the remaining members of the

board present shall, by majority vote of a quorum present, determine whether the member is or is not disqualified from participating in and voting on the matter.

3. If a board member is disqualified on a regular and continuing basis due to a conflict of interest (as defined in subsection 1 above), the Chair of the board may request, in writing, that the member resign. If the member does not resign in response to such a request, the Chair shall report the conflict of interest to the Mayor and City Commission, who may consider whether to remove and replace the member in accordance with Section [155.2203.C.4](#), Removal and Replacement; Attendance.



I. Rules of Procedure

The ZBA shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Development Services Department.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2014-16](#), passed 1-28-14; Am. Ord. [2015-75](#), passed 9-8-15 ; Am. Ord. [2017-17](#), passed 1-10-17)

Sec. 191. METHOD OF MAKING SPECIAL ASSESSMENTS.

Editor's note: See editor's note following section 184.

Sec. 192. ASSESSMENT ROLL AND NOTICE.

Editor's note: See editor's note following section 184.

Sec. 193. ASSESSMENTS AGAINST UNITED STATES OR POLITICAL SUBDIVISIONS.

Editor's note: See editor's note following section 184.

Sec. 194. HEARING; CONFIRMATION OF ASSESSMENT LIST.

Editor's note: See editor's note following section 184.

Sec. 195. SETTING ASIDE SPECIAL ASSESSMENTS.

Editor's note: See editor's note following section 184.

Sec. 196. SUITS, ACTIONS, WRITS, OR SPECIAL PROCEEDINGS.

Editor's note: See editor's note following Section 184.

Sec. 197. METHOD OF COLLECTION.

Editor's note: See editor's note following section 184.

Sec. 198. LIEN DOCKET.

Editor's note: See editor's note following section 184.

Sec. 199. SPECIAL ASSESSMENT REVOLVING FUND.

Editor's note: See editor's note following section 184.

Sec. 200. ASSIGNMENT OF ASSESSMENT LIENS.

Editor's note: See editor's note following section 184.

Sec. 201. FORECLOSURE BY CITY.

Editor's note: See editor's note following section 184.

Sec. 202. FORECLOSURE WHEN LIENS ASSIGNED.

Editor's note: See editor's note following section 184.

ARTICLE XXI: (RESERVED)

Secs. 203 through 213.

Editor's note: Charter Amendment No. 1, approved by the electorate on

1982 S-1A

March 10, 1981, repealed Article XXI, previously contained herein, which dealt with the Planning Board.

ARTICLE XXII: (RESERVED)

Secs. 214. through 220.

Editor's note: Charter Amendment No. 1, approved by the electorate on March 10, 1981, repealed Article XXII, previously contained herein, which dealt with the Zoning Board. Pursuant to the Municipal Home Rule Powers Act, the substantive provisions of Sections 218 - 220 have been transferred to §§100.45, 100.46, 155.026, and 155.027.

ARTICLE XXIII: ZONING BOARD OF APPEALS

Sec. 221. ESTABLISHMENT AND MEMBERSHIP.

There is hereby created and established a Zoning Board of Appeals which shall consist of five (5) members, each of whom shall be a resident of the City of Pompano Beach, appointed by resolution of the City Commission, and each member shall be appointed for a term of three (3) years and removable for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Said Board, from its membership, shall elect a Chairman and Vice-Chairman, and each member of said Board shall serve without compensation. The Zoning Administrator shall meet with said Board in an advisory capacity but shall have no vote. The purpose of the Board is to hear and determine appeals from refusal of building permits and to permit special exceptions and/or variances from the terms of the zoning ordinances in harmony with its general purpose and intent, and in accordance with the principles, conditions and procedures specified in the ordinances. (Ref. of 3-9-76; Ref. of 3-11-80; Amend. No. 8)

Sec. 222. SUBSTITUTE MEMBERS.

The City Commission shall by resolution appoint three (3) alternate members of the Zoning Board of Appeals, to be designated as Alternate 1, Alternate 2, and Alternate 3. Each alternate member shall be appointed for a term of three (3) years, said terms to run concurrently, and shall be subject to removal for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any alternate member whose term becomes vacant. In case of temporary absence or disqualification of any member of the Zoning Board of Appeals, the Chairman of the Board shall have the right and authority to designate one of such

alternate members to serve as a substitute on the Zoning Board of Appeals during the continuance of such absence or disqualification. The Chairman shall rotate such assignments among the three

(3) alternate members, unless unavailability of an alternate or alternates makes such rotation impossible. No substitute shall serve in such capacity for a longer period than three (3) months, nor shall more than two (2) substitutes serve on the Board of Appeals at any time. In cases where substitutes are designated to serve for such limited periods, such facts shall be recorded in the official minutes of the Zoning Board of Appeals before such substitute shall act in any matter presented to the Board and, while serving, substitutes shall have the same powers as regular members. (Ref. of 3-9-76)

Sec. 223. RULES, REGULATIONS AND PROCEDURE.

The City Commission may by ordinance fix and determine procedure for the Zoning Board of Appeals and such Board shall adopt reasonable rules and regulations consistent with the provisions of such ordinance for the presentation of matters before such Board, for notifying interested parties, for charging and collecting an application fee, for conducting and holding hearings, and for calling in advisors or assistants from time to time. The city shall furnish to the Board stenographers, typists and clerical help and pay miscellaneous expenses from time to time. No member of the Board shall draw any compensation for his services. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member upon each question submitted to it, or, if a member is absent or fails to vote, such fact shall appear upon its minutes. Copies of its minutes shall be immediately filed with the Clerk and the city and shall become a public record.

Sec. 224. ADMINISTRATION FUND.

Editor's note: This section was repealed in March, 1981.

Sec. 225. POWERS.

The Zoning Board of Appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance;

(2) To hear and decide special exceptions to the terms of any zoning ordinance upon which such Board is

required to pass under such zoning ordinance;

(3) To authorize upon appeal in specific cases such variance from the terms of any zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so justice done.

In exercising the above powers and duties, the Board shall not grant a variance unless and until:

(1) It shall be demonstrated that special and peculiar conditions and circumstances affect the land, building or structure concerning which variance is sought, which conditions and circumstances do not apply generally to neighboring lands, buildings and structures in the same district.

(2) It shall be demonstrated that the existing conditions and circumstances are not the result of the actions of the applicant or his agents.

(3) It shall be demonstrated that the existing conditions and circumstances are such that strict application of the provisions of the ordinance would deprive the applicant of reasonable use of said land, building or structure, equivalent to the use made in neighboring lands, buildings or structures in the same district and permitted by the terms of this provision provided, however, that no nonconforming use of neighboring lands, buildings or structures, legal or illegal, in the same district and not permitted use of lands, buildings or structures in adjacent areas shall be considered grounds for issuance of a variance permitting similar uses.

(4) The Zoning Board of Appeals shall find that the granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance, and that the variance proposed to be granted is the minimum variance that will make possible the reasonable use of the land, building or structure. The Zoning Board of appeals shall not be empowered or authorized to issue variances or exceptions to permit a use in a district in which such use is prohibited by the zoning ordinance unless such variance falls under the preceding conditions.

Sec. 226. DECISION OF BOARD.

In exercising the foregoing powers mentioned herein, such Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, or may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is

taken. Each decision of the Board shall set out with sufficient clarity and succinctness the exact and particular decision made by such Board, and all such decisions shall be on an appropriate form. One copy of the decision shall be kept by the Board of Appeals, one copy shall be forwarded to the City Clerk and shall become a public record, and at least one copy shall be forwarded to the applicant. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative officer, or decide in favor of the applicant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variance in such zoning ordinance.

Sec. 226.1. REVERSAL OR MODIFICATION BY CITY COMMISSION.

All final decisions of the Zoning Board of Appeals granting appeals, special exceptions and/or variances, may be appealed to the City Commission which shall be empowered to affirm, reverse or modify such decision under the same criteria the Board is required by law to follow. Such appeal may be instituted by a City Commissioner, the City Manager or any individual entitled to notice of the original proceeding before the Zoning Board of Appeals. Procedures for the filing of decisions of the Board and taking appeals therefrom shall be established by ordinance. (Sp. Acts, Ch. 69-1511, § 2) (Amendment adopted by electorate 3-13-90)

Editor's note: Ch. 69-1511, § 2, ratified Feb. 18, 1969, amended Ch. 57-1754 by adding thereto section 226.1.

Sec. 227. APPEAL TO COURT.

Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Board of Appeals, may petition the circuit court for issuance of a writ of certiorari, appealing such decision, in whole or in part, and specifying the grounds for the appeal in the manner and within the time provided by the Florida Appellate Rules. (Ref. of 3-8-77)

ARTICLE XXIV: FRANCHISE
AND PUBLIC UTILITIES

Sec. 228. GRANTING OF FRANCHISES.

The City Commission may by ordinance grant franchises of all kinds, to any individual, firm or corporation for the use of city streets, water and waterways, public beaches, and recreational facilities, lands and ways, but no such franchise shall be granted for more than 30 years, nor shall it be exclusive. Such franchise may be renewed for additional periods at the expiration date provided the same procedure is followed as is required for new franchises. No such franchise or renewal shall be assigned

except by consent and approval of the City Commission. (Ref. of 3-9-76)

Sec. 229. FRANCHISE NOTICE AND PUBLIC HEARING.

Before any such franchise is granted there shall be a public hearing after notice has been published once in a newspaper of general circulation in the City of Pompano Beach, Florida not less than five (5) days prior to the date of the hearing. (Ref. of 3-9-76)

Sec. 230. FRANCHISE, GENERAL PROVISIONS.

Nothing contained in this Charter shall in any way limit the City Commission in the exercise of any of its lawful powers with respect to public utilities, or to prohibit the City Commission from imposing in any such grant restrictions and provisions as it may deem to be in the public interest, provided they are not inconsistent with the provisions of this Charter or of the Constitution of the State of Florida. (Ref. of 3-9-76)

Sec. 231. PURCHASING OF PUBLIC UTILITIES.

Whenever the City Commission shall determine, and in accordance with the franchise terms, the city may purchase the properties of a privately owned public utility and may include in such purchase properties located outside as well as within the city.

The city may also condemn any public utility properties pursuant to the general condemnation provisions of this Charter. (Ref. of 3-9-76)

Sec. 232. FINANCIAL PROVISIONS.

The city may finance the acquisition of privately owned utility properties, the purchase of land, and the cost of all construction and property installation for utility purposes by borrowing, in accordance with the provisions of Article XIX of this Charter. Appropriate provisions shall be made however, for the amortization and retirement of all bonds within a maximum period of forty (40) years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility. (Special Acts, Ch. 61-2711, § 8; Ref. of 3-9-76)

Sec. 233. ESTABLISHMENT OF MUNICIPALLY OWNED AND OPERATED UTILITIES.

The city shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed, and to lease or purchase any existing utility properties used and useful in public service. The city may also furnish service in adjacent and nearby communities which may be conveniently and economically served by the municipally owned and operated utility, subject to agreements with such communities, and subject to provisions of state law. The

D. OTHER ACTIONS

To take any other action not assigned or delegated to the Zoning Board of Appeals, Planning and Zoning Board, Architectural and Appearance Committee, Historic Preservation Committee, Development Review Committee, Development Services Director, or other advisory or decision-making authority as the City Commission may deem desirable and necessary to implement the provisions of this Code.

155.2203. ZONING BOARD OF APPEALS (ZBA)

A. ESTABLISHMENT

The Zoning Board of Appeals (ZBA) is hereby established in accordance with state law.

B. POWERS AND DUTIES

The ZBA shall have the following powers and duties under this Code:

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Special Exception (Sec. 155.2406);
- b. Major Temporary Use Permit (Sec. 155.2412.C);
- c. Interim Use Permit (Sec. 155.2415);
- d. Variance (Sec. 155.2420); and
- e. Appeal of a decision of the Development Services Director on an application for an Interpretation (Sec. 155.2424).

2. Other Powers and Duties

- a. To review and decide appeals of relating to regulations in Section 100.40 (Movable Fixtures in the Public Right-of-Way) of the Code of Ordinances, in accordance with procedures and standards in that section;
- b. To review and decide requests for variances relating to regulations in Chapter 151 (Beaches and Waterways) of the Code of Ordinances, in accordance with procedures and standards in that chapter;
- c. To review and decide requests for variances and appeals relating to floodplain management regulations in, and actions authorized by, Chapter 152 (Buildings) of the Code of Ordinances, in accordance with procedures and standards in that chapter; and
- d. To carry out any other powers and duties delegated to it by the City Commission, consistent with state law.

C. MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

1. Membership and Appointment

- a. The ZBA shall consist of five regular voting members and three alternate members, appointed by resolution of the City Commission as a whole.
- b. Appointed regular voting members shall include one person nominated by each City Commissioner from among residents of the City Commissioner's district—provided, however, that a Commissioner may nominate a person who does not reside in the City Commissioner's district on determining such person would better serve the public interest.
- c. Alternate members shall be appointed by the City Commission as a whole.
- d. Each regular voting member and alternate member shall be a resident of the city.
- e. Regular voting members and alternate members shall serve without compensation.

2. Terms

- a. Regular voting members of the ZBA shall be appointed for a term which shall run concurrently with the term of the member of the City Commission who appointed them.
- b. Alternate members shall be appointed for three-year, concurrent terms.
- ✓ c. Regular voting members and alternate members shall continue to serve until their successors are appointed.

3. Alternate Members

The Chair of the ZBA shall be authorized to assign one of the three alternate members to serve as a substitute for a regular voting member who is temporarily absent or disqualified, in accordance with the following:

- a. The Chair shall rotate assignments among the alternate members unless the unavailability of alternate members makes such rotation impossible.
- b. No alternate member may serve as a substitute member for a period of more than three months.
- c. No more than two alternate members may serve as substitute members at any one time.
- d. No alternate member may take action as a substitute member unless the Chair first announces assignment of that role and the assignment is recorded in the official minutes of the meeting.
- e. When substituting for regular voting members, alternate members shall have the same powers and duties as the regular voting member they replace.

4. Removal and Replacement; Attendance

a. Removal for Good Cause

The City Commission may, by majority vote of a quorum present, remove and replace any member of the ZBA at any time for good cause, including, but not limited to, poor attendance (See subsection b below.), lack of participation, unfitness, malfeasance, and conflict of interest (See Section 155.2203.H.). Any allegation of cause for removal shall be in writing, and the City Commission shall hold a public hearing on such an allegation before taking action to remove a board member.

b. Removal for Poor Attendance

Any member of the ZBA who is absent from three consecutive regularly scheduled board meetings or more than 50 percent of regularly scheduled board meetings held within a calendar year shall be removed from the board by the City Commission in accordance with subsection a above. The Chair of the ZBA shall notify the Mayor and City Commission if a member qualifies for removal under this subsection.

5. Vacancies

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only, in accordance with the following:

- a. A vacancy in the term of a regular voting member shall be filled by the City Commissioner in whose district the appointment originated.
- b. A vacancy in the term of an alternate member shall be filled by the City Commission as a whole.

D. CHAIR AND VICE-CHAIR

- 1. The ZBA shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term. The Chair and Vice-Chair may be elected to successive terms without limitation.
- 2. The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the ZBA shall vote to determine who shall serve as acting Chair for the meeting.

E. STAFF

The Development Services Director shall serve as the professional staff liaison to the ZBA, provide it with administrative support, and serve as its Secretary, notifying board members of all meetings and keeping the minutes of the meetings.

F. MEETINGS

1. Schedule

The ZBA shall adopt a schedule establishing the date, time, and location of regular meetings. The Chair may adjourn a regular meeting on determining that there are no agenda items for consideration, and may call special meetings.

2. Official Record

The ZBA shall keep a written record of its recommendations, transactions, findings, and determinations. Such record shall include minutes of meetings in accordance with state law¹ and shall be a public record and filed with the Development Services Director.

3. Notice of Meetings

- a. The Development Services Director shall provide notice of ZBA meetings to each board member at least 48 hours before the meeting.
- b. Notice of all ZBA meetings and public hearings shall be provided in accordance with state law and the public hearing requirements in Section 155.2305.C, Public Hearing Notice, as appropriate.

4. Open Meetings

All meetings of the ZBA shall be open to the public.

5. Procedure

In conducting its meetings, the ZBA shall follow rules of procedure adopted in accordance with Section 155.2203.I, Rules of Procedure.

G. QUORUM AND NECESSARY VOTE

1. Quorum

Four members of the ZBA shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

2. Voting

The concurring vote of four members of the ZBA shall be necessary to approve a Special Exception, Major Temporary Use Permit, or Interim Use Permit, grant any Variance, or approve any appeal reversing or modifying a decision. An affirmative vote of the majority of board members present and constituting a quorum shall be required for all other decisions.

H. DISQUALIFICATION FROM PARTICIPATION AND VOTING BASED ON CONFLICT OF INTEREST

1. A member of the ZBA shall not participate in the review of, or vote on, an application for a development permit if the action proposed by the application creates a conflict of interest—that is, if the action proposed by the application would inure to the special private gain or loss of the member, any principal or corporation (or a parent organization or subsidiary of such corporation) that employs or otherwise retains the services of the member, or a close relative (e.g., parent, sibling, spouse, or parent- or sibling-in-law) or business associate of the member.

¹ Sec. 286.011, Fla. Stat.

2. If an objection is raised to a board member's participation in a matter based on a conflict of interest (as defined in subsection 1 above), and that member does not recuse himself or herself, the remaining members of the board present shall, by majority vote of a quorum present, determine whether the member is or is not disqualified from participating in and voting on the matter.
3. If a board member is disqualified on a regular and continuing basis due to a conflict of interest (as defined in subsection 1 above), the Chair of the board may request, in writing, that the member resign. If the member does not resign in response to such a request, the Chair shall report the conflict of interest to the Mayor and City Commission, who may consider whether to remove and replace the member in accordance with Section 155.2203.C.4, Removal and Replacement; Attendance.

I. RULES OF PROCEDURE

The ZBA shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Development Services Department.

155.2204. PLANNING AND ZONING BOARD (P&Z)

A. ESTABLISHMENT

The Planning and Zoning Board (P&Z) is hereby established in accordance with state law.

B. POWERS AND DUTIES

The P&Z shall have the following powers and duties under this Code:

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Major Site Plan (Sec. 155.2407); and
- b. Major Administrative Adjustment (Sec. 155.2421).

2. Make Recommendations on Applications for Development Permit

To review and make a recommendation on the following applications for a development permit:

- a. Text Amendment (Sec. 155.2402);
- b. General Map Amendment (Rezoning) (Sec. 155.2403);
- c. Site-Specific Map Amendment (Rezoning) (Sec. 155.2404);
- d. Planned Development (Sec. 155.2405);
- e. Plat (Sec. 155.2410);
- f. Interim Use Permit (Sec. 155.2415);
- g. Development Agreement (Sec. 155.2427);
- h. Takings or Vested Right Determination (Sec. 155.2429) [placeholder]; and
- i. Right-of-Way of Easement Vacation or Abandonment (Sec. 155.2431).

3. Other Powers and Duties

- a. To act as the city's local planning agency and assume general responsibility for conduct of the city's comprehensive planning program;
- b. To work in conjunction with the Development Services Director and other city staff to prepare the city's comprehensive plan and plan amendments, and to make final recommendations to the City Commission regarding the adoption or amendment of the plan;
- c. To monitor and oversee the effectiveness and status of the comprehensive plan, make recommendations to the City Commission regarding necessary changes to the plan, work with the Development Services Director and other city staff to prepare periodic evaluation and appraisal reports assessing the city's progress in implementing its comprehensive plan in

abate violation, to prevent the occupancy of the buildings, structure, or land or to prevent any illegal act, conduct, business, or use in or about the premises. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis therefor, shall be filed with the Zoning Director.

(B) When as a condition of the issuance of a Certificate of Occupancy by the Building Department or as a condition of final inspection by the Engineering Department, the Zoning Department is required to perform a site inspection, the following inspection fees shall apply, which fees shall be in addition to any and all fees as required pursuant to Chapter 152:

(1) If a Zoning Inspector upon the first inspection finds the work conforms to or complies with the provisions of this chapter or conforms to or complies with the approved plans on file with the city, there shall be no inspection fee.

(2) If a Zoning Inspector upon the first inspection finds the work does not conform to or comply with the provisions of this chapter or does not conform to or comply with the approved plans on file with the city, the Code Inspector shall notify the owner or contractor indicating the corrections required.

(3) When the corrections have been made, the Zoning Inspector shall re-inspect the site.

(4) A certificate of occupancy shall not be issued by the Building Department nor any final inspection be performed by the Engineering Department if any reinspection fees required by this section remain unpaid. ('58 Code, § 50.001) (Ord. 664, passed - - ; Am. Ord. 75-15, passed 12-30-74; Am. Ord. 82-1, passed 10-20-81; Am. Ord. 95-61, passed 5-9-95; Am. Ord. 2000-16, passed 10-26-99; Am. Ord. 2007-50, passed 4-24-07)

§ 155.022 ZONING BOARD OF APPEALS.

(A) As used in this chapter, Board means the Zoning Board of Appeals as established herein. ('58 Code, § 50.270)

(B) There is hereby established a Zoning Board of Appeals which shall consist of five members appointed by

resolution of the City Commission. Each Commissioner shall nominate for appointment one member who shall be a resident in the district of the nominating Commissioner; however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. Alternate members shall be city residents and shall be appointed by the City Commission. Any subsequent vacancy or a vacancy due to an unexpired term shall be filled by the Commissioner in whose district the appointment originated save for the appointments of alternate members who shall continue to be appointed by the City Commission. Members shall serve for a term of three years from date of appointment. The Board, from its membership, shall elect a Chairman and Vice-Chairman. A Secretary shall be provided to the Board, such individual to be designated by the City Manager. Each member of the Board shall serve without compensation. The Director of Planning and Growth Management or his duly authorized representative shall meet with the Board of Appeals in an advisory capacity but shall not have any vote. The members of the Board shall be subject to removal for cause by the City Commission after a hearing before the City Commission.

('58 Code, § 50.271) (Ord. 75-15, passed 12-30-74; Am. Ord. 82-1, passed 10-20-81; Am. Ord. 83-68, passed 9-6-83; Am. Ord. 95-44, passed 3-14-95; Am. Ord. 95-68, passed 6-6-95)

(C) No member of the Board shall draw any compensation for his services. ('58 Code, § 50.274)

(D) Meetings of the Board shall be held at the call of the Chairman and at other times as the Board may determine. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member on each question submitted to it, or, if a member is absent or fails to vote, the fact shall appear in its minutes. Copies of its minutes shall be immediately filed with the City Clerk and shall become a public record. ('58 Code, § 50.275)

(E) The purpose of the Board is to hear and determine appeals from refusal of building permits and to permit special exceptions or variances from the terms of this chapter in harmony with its general purpose and intent, and in accordance with the principles, conditions, and procedures specified in this section and §§ 155.023 through 155.025. ('58 Code, § 50.2751)

(F) The Board shall have the following powers.

(1) Hear and decide appeals where it is alleged there in error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.

(2) Hear and decide special exceptions to the terms of any zoning ordinance upon which the Board is required to pass.

(3) Authorize on appeal in specific cases any variance from the terms of any zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship.

(4) Grant temporary permits for nonconforming use of buildings or lands in the city; however, the temporary permits shall expire up to one year, after their issuance.

(5) Hear and decide requests and/or motions for rehearings in accordance with the procedures set forth in the Code of Ordinances addressing the Zoning Board of Appeals.

(6) Hear and decide any variance request made for relief from the provisions of § 151.03, in accordance with the principles, conditions and procedures specified in this chapter. Prior to its review of any such variance request, the Board shall first be provided the recommendations of the Marine Advisory Board on the specific request.

('58 Code, § 50.276) (Ord. 666, passed - - ; Am. Ord. 66-A, passed - - ; Am. Ord. 93-32, passed 3-16-93; Am. Ord. 97-42, passed 3-11-97; Am. Ord. 98-10, passed 11-25-97; Am. Ord. 2005-79, passed 9-27-05)

Cross-reference:

Zoning Board of Appeals, see Charter sections 221 through 227

Board to act as board of adjustment for airport zoning, see § 150.11

Authority to grant floodplain variances, see § 152.25

§ 155.023 VARIANCES.

(A) In exercising the powers and duties prescribed by § 155.022, the Zoning Board of Appeals shall not grant a variance unless and until the following has been demonstrated.

(1) Special and peculiar conditions and circumstances affect the land, building, or structure concerning which variance is sought, which conditions and

circumstances do not apply generally to neighboring lands, buildings, and structures in the same district.

(2) The existing conditions and circumstances are not the result of the actions of the applicant or his agents.

(3) The existing conditions and circumstances are such that strict application of the provisions of the ordinance would deprive the applicant of reasonable use of the land, building, or structure, equivalent to the use made in neighboring lands, buildings, or structures in the same district and permitted by the terms of this provision, however, no nonconforming use of neighboring lands, buildings, or structures, legal or illegal, in the same district and no permitted use of lands, buildings, or structures in adjacent areas shall be considered grounds for issuance of a variance permitting similar uses.

(4) The Board shall find that the granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance, and that the variance proposed to be granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(B) The Board shall not be empowered or authorized to issue variances or exceptions to permit a use in a district in which the use is prohibited by this chapter unless the variance falls under the conditions set out by subsection (A) above.

(C) The Board shall not be empowered or authorized to grant a variance which has the effect of providing relief from a code requirement under which a property owner or his agent has been cited for a zoning violation unless and until one of the following events has occurred:

(1) The Code Enforcement Officer has determined that the violation no longer exists or recurs;

(2) The property owner or his agent has appeared before the Special Master for Code Enforcement, who shall determine whether or not a violation has occurred and issue the appropriate order.

(D) It is hereby declared that any person, which term shall include, but is not limited to, an individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, corporation, business or other similar entities, that do not meet or adhere to any and all restrictions or conditions imposed by the Zoning Board of Appeals and any of its orders shall be deemed in violation of the provisions of this chapter.

**CITY OF POMPANO BEACH
Broward County, Florida**

**AN ORDINANCE AMENDING CHAPTER 155 OF THE
POMPANO BEACH CODE OF ORDINANCES BY
AMENDING SECTION 155.022, "ZONING BOARD OF
APPEALS", SUBSECTION (B), RELATING TO THE
METHOD OF APPOINTMENT; PROVIDING FOR
SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1: That Section 155.022, "Zoning Board of Appeals", is hereby amended to read as follows:

Section 155.022 ZONING BOARD OF APPEALS.

...
(B) There is hereby established a Zoning Board of Appeals which shall consist of five (5) members appointed by resolution of the City Commission. Each Commissioner shall nominate for appointment one (1) member who shall be a resident in the district of the nominating Commissioner, however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. Alternate members shall be city residents and shall be appointed by the City Commission. Any subsequent vacancy or a vacancy due to an unexpired term shall be filled by the

Commissioner in whose district the appointment originated save for the appointments of alternate members who shall continue to be appointed by the City Commission. Members shall serve for a term of three (3) years from the date of appointment. The Board, from its membership shall select a Chairman and Vice-Chairman. A Secretary shall be provided to the Board, such individual to be designed by the City Manager, each member of the Board shall serve without compensation. The Director of Planning and Growth Management or his duly authorized representative shall meet with the Zoning Board of Zoning Appeals in an advisory capacity but shall not have any vote. The members of the Board shall be subject to removal for cause by the City Commission after a hearing before the City Commission.

...

SECTION 2: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3: This Ordinance shall become effective upon passage.

PASSED FIRST READING this 30th day of May, 1995.

PASSED SECOND READING this 6th day of June, 1995.


EMMA LOU OLSON, MAYOR

ATTEST:


MARY L. CHAMBERS, CITY CLERK

SVT:amd
4/21/95
L:\ord\95-217

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 155 OF
THE POMPANO BEACH CODE OF ORDINANCES BY
AMENDING SECTION 155.022, "ZONING BOARD
OF APPEALS", SUBSECTION (B), RELATING
TO THE METHOD OF APPOINTMENT AND
REMOVAL OF BOARD MEMBERS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR AN
EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been
given by publication in a paper of general circulation in the City
notifying the public of this proposed Ordinance and of a public
hearing in the City Commission Chambers of the City of Pompano
Beach, Florida; and

WHEREAS, a public hearing before the City Commission was
held pursuant to the published notice described above, at which
hearing the parties in interest and all other citizens so desiring
had an opportunity to be and were, in fact, heard; now, therefore

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF POMPANO
BEACH, FLORIDA:

SECTION 1. That Section 155.022, "Zoning Board of Appeals",
is hereby amended to read as follows:

Section 155.022 ZONING BOARD OF APPEALS.

. . .

(B) There is hereby established a Zoning Board of Appeals which shall consist of five (5) members appointed by resolution of the City Commission/. Each Commissioner shall nominate for appointment one (1) member who shall be a resident in the district of the nominating Commissioner. Alternate members shall be City residents and shall be appointed by the City Commission. Any subsequent vacancy or a vacancy due to an unexpired term shall be filled by the Commissioner in whose district the appointment originated save for the appointments of alternate members who shall continue to be appointed by the City Commission. ~~When~~ Members shall serve for a term of three (3) years from the date of appointment. The Board, from its membership shall select a Chairman and Vice-Chairman. A Secretary shall be provided to the Board, such individual to be designated by the City Manager, each member of the Board shall serve without compensation. The Director of Planning and Growth Management or his duly authorized representative shall meet with the Board of Zoning Appeals in an advisory capacity but shall not have any vote. The members of the Board ~~may be removed by the City Commission on written charges after public hearing before the City Commission.~~ shall be subject to removal for cause by the City Commission after a hearing before the City Commission.

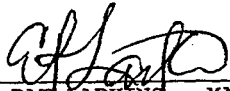
...

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon
passage.


PASSED FIRST READING this 7th day of March, 1995.

PASSED SECOND READING this 14th day of March, 1995.



E. PAT LARKINS, MAYOR

ATTEST:



MARY L. CHAMBERS
CITY CLERK

PDE/jrm
1/24/95
Ord D-61 95-070

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE APPROVING A CERTAIN CHANGE TO CHAPTER 57-1754, LAWS OF FLORIDA, SPECIAL ACTS OF 1957, AS SUBSEQUENTLY AMENDED AND SUPPLEMENTED, OTHERWISE KNOWN AS THE CHARTER OF THE CITY OF POMPANO BEACH, FLORIDA; AMENDING SECTION 226.1 OF SAID CHARTER TO DELETE REFERENCES TO TIME LIMITS AND OTHER PROCEDURAL MATTERS REGARDING REVERSAL OR MODIFICATION BY THE CITY COMMISSION OF ZONING BOARD OF APPEALS DECISIONS AND PROVIDING THAT PROCEDURES SHALL BE ESTABLISHED BY ORDINANCE; PROVIDING FOR SUBMISSION OF SAID CHARTER AMENDMENTS TO THE VOTERS FOR APPROVAL OR DISAPPROVAL AT THE MARCH 13, 1990 MUNICIPAL ELECTION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given in a paper of general circulation in the City notifying the public of this proposed Ordinance and of a public hearing in the Commission Meeting Room of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

WHEREAS, a certain proposed Charter Amendment has been presented to the City Commission; and

WHEREAS, the City Commission has duly considered same and by passage of this Ordinance desires to approve such Charter Amendment as indicated herein and to submit same to the electors of the municipality pursuant to Section 166.031, Florida Statutes; now, therefore

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA;

SECTION 1: The following proposed Amendment to Chapter 57-1754, Laws of Florida, Special Acts of 1957, as subsequently amended and supplemented, otherwise known as the Charter of the City of Pompano Beach, Florida, is hereby approved for submission to the voters of the City of Pompano Beach, Florida:

In order to remove references to procedural matters such as time limitations from Section 226.1 of the Charter pertaining to reversal or modification by the City Commission of decisions of the Zoning Board of Appeals, Section 226.1 of the Charter is hereby amended to read as follows:

Sec. 226.1 REVERSAL OR MODIFICATION BY CITY COMMISSION.

All final decisions of the Zoning Board of Appeals shall ~~be filed with the City Commission within three (3) days following the date of the meeting at which such final decision of the Zoning Board of Appeals was passed. The City Commission may within seventeen (17) days of the date of the passage of any decision by the Zoning Board of Appeals~~ granting appeals, special exceptions and/or variances, ~~reverse such decision or modify such decision of the Zoning Board of Appeals~~ may be appealed to the City Commission which shall be empowered to affirm, reverse or modify such decision under the same criteria the Board is required by law to follow. ~~The proceeding for reversal or modification as set forth in this section~~ Such appeal may be instituted by a City Commissioner, the City Manager or any individual entitled to notice of the original proceeding before the Zoning Board of Appeals. Procedures for the filing of decisions of the Board and taking appeals therefrom shall be established by ordinance.

SECTION 2: In accordance with Section 166.031, Florida Statutes, the aforesaid proposed Charter Amendment shall be submitted to the electors of the City of Pompano Beach at the annual General Municipal Election to be held on the 13th day of March, 1990. The substance of the Amendment approved herein shall

appear on the ballot in substantially the following form:

SHALL SECTION 226.1 OF THE CITY CHARTER PERTAINING TO REVERSAL OR MODIFICATION BY THE CITY COMMISSION OF DECISIONS OF THE ZONING BOARD OF APPEALS BE AMENDED TO ELIMINATE REFERENCES TO PROCEDURAL MATTERS SUCH AS TIME LIMITATIONS FOR FILING AND ACTION BY THE CITY COMMISSION, MORE APPROPRIATE PROCEDURES TO BE SUBSEQUENTLY ESTABLISHED BY ORDINANCE.

SECTION 3: If the Amendment is approved by a majority of the electors voting on the Amendment it shall take effect upon the filing of the revised Charter with the Department of State pursuant to Subsection 166.031(2), Florida Statutes.

SECTION 4: If any provisions of this Ordinance or the application thereto any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 5: This Ordinance shall become effective upon passage.

PASSED FIRST READING this 19th day of December,
1989.

PASSED SECOND READING this 16th day of January,
1990.

ATTEST:

Vernadette Fuller
VERNADETTE FULLER CITY CLERK

DCR/md
12/1/89/CHAM/060
Rev. 1/10/90/DCR/jvs

E. Pat Larkins
E. PAT LARKINS MAYOR

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE APPROVING CERTAIN CHANGES TO CHAPTER 57-1754, LAWS OF FLORIDA, SPECIAL ACTS OF 1957, AS SUBSEQUENTLY AMENDED AND SUPPLEMENTED, OTHERWISE KNOWN AS THE CHARTER OF THE CITY OF POMPANO BEACH, FLORIDA; CHANGING THE MANNER OF ELECTING CITY COMMISSIONERS FROM THE PRESENT SYSTEM OF ELECTION AT LARGE TO A SYSTEM OF ELECTION BY DISTRICT WHEREBY EACH COMMISSIONER WOULD BE ELECTED BY VOTE OF ONLY THE ELECTORS VOTING IN THE DISTRICT WITHIN WHICH THE COMMISSIONER RESIDES; CHANGING THE TERM OF OFFICE OF CITY COMMISSIONERS FROM TWO (2) YEARS TO THREE (3) YEARS; CHANGING THE METHOD OF FILLING VACANCIES ON THE CITY COMMISSION IN THE EVENT OF A TIE VOTE TO FILL ANY VACANCIES; REPEALING SECTION 245 OF THE CHARTER; REWORDING SECTION 104 OF THE CHARTER PERTAINING TO CARRYOVER OF UNENCUMBERED APPROPRIATIONS; ADDING TO SECTION 220 OF THE CHARTER PERTAINING TO VACATING OR ABANDONING PUBLIC WAYS AND EASEMENTS PROVISIONS REQUIRING NOTIFICATION OF CERTAIN AFFECTED PROPERTY OWNERS; CHANGING A REFERENCE IN SUBSECTION 94(1) OF THE CHARTER FROM "INSURANCE RESERVE FUND" TO "INSURANCE SERVICES FUND"; AMENDING SECTION 221 OF THE CHARTER TO PROVIDE THAT MEMBERS OF THE ZONING BOARD OF APPEALS SHALL BE RESIDENTS OF THE CITY OF POMPANO BEACH; ADDING TO THE CHARTER A NEW SECTION 263 PROVIDING THAT CHARTER REFERENCES TO A PERSON IN THE MASCULINE GENDER SHALL BE DEEMED TO INCLUDE PERSONS IN THE FEMININE GENDER; DELETING FROM THE CHARTER SECTIONS 87 THROUGH 104, SECTION 244 AND SECTION 244.1; PROVIDING FOR SUBMISSION OF SAID CHARTER AMENDMENTS TO THE VOTERS FOR APPROVAL OR DISAPPROVAL AT THE MARCH 11, 1980 MUNICIPAL ELECTION; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, seven (7) days' notice has been given in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the Commission Meeting Room of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held, pursuant to the published notice described above at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

WHEREAS, certain proposed charter amendments have been presented to the City Commission; and

WHEREAS, the City Commission has duly considered same and by passage of this ordinance desires to approve such proposed charter amendments as indicated herein; and

WHEREAS, Section 261 of the City Charter and Section 166.031, Florida Statutes, provide for the method of amending the City Charter; now, therefore

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1: That the following proposed amendments to Chapter 57-1754, Laws of Florida, Special Acts of 1957, as subsequently amended and supplemented, otherwise known as the Charter of the City of Pompano Beach, Florida are hereby approved for submission to the voters of the City of Pompano Beach, Florida:

PROPOSED AMENDMENT NO. 1

That Section 3, Districts, and Section 6, Number; selection; term, of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 3. Districts.

For the purpose of representation upon and election of members to the City Commission, the City Commission shall, by ordinance, prior to December 1, 1981, apportion the City in accordance with the Constitution of the State of Florida and of the United States into not less than five nor more than seven consecutively numbered districts. Thereafter, by subsequently enacted ordinances, the City Commission shall adjust the boundary lines of said districts as may be required from time to time in order that the apportionment of the City shall continue to be in accordance with the Constitution of the State of Florida and of the United States, but in any event not less frequently than within the first calendar year following each decennial census.

Sec. 6. Number; selection; term.

Beginning with the Municipal General Election of 1982, the City Commission shall consist of a number of electors of

the City corresponding to the number of districts established pursuant to Article I, Section 3 of this Charter, one (1) commissioner to be elected from each of said districts by vote of only the electors within that district. Commissioners shall be elected for a period of two (2) years, or until their successors are elected and qualified. The terms of office of city commissioners shall be staggered so that the terms of office of all commissioners shall not expire the same year. At the Municipal General Election to be held in 1982, a majority of the commissioners shall be elected for a term of two (2) years; the remainder of the commissioners shall be elected for a term of one (1) year. In subsequent elections, all commissioners shall be elected for two (2) year terms to fill seats as terms expire in the respective districts. At the Municipal General Election of 1981, commissioners shall be elected at large in accordance with the Charter provisions in effect prior to the effective date of this Section; in order to effect the transition from the system of election at large, commissioners elected in 1981 shall be elected for a term of one (1) year so that the terms of all commissioners elected at large will expire simultaneously in 1982.

PROPOSED AMENDMENT NO. 2

That the said Charter shall be amended by changing the term of office of city commissioners from two (2) years to three (3) years.

(a) In the event that Proposed Amendment No. 1 set forth hereinabove is approved by the voters, this amendment changing the term of office from two (2) years to three (3) years shall be accomplished by amending Section 6 of the Charter to read as follows:

Sec. 6. Number; selection; term.

Beginning with the Municipal General Election of 1982, the

PROPOSED AMENDMENT NO. 2 FAILED
AT MUNICIPAL ELECTION OF MARCH
11, 1980. ALL OTHER AMENDMENTS
WERE APPROVED.
tk

City Commission shall consist of a number of electors of the City corresponding to the number of districts established pursuant to Article I, Section 3 of this Charter, one (1) commissioner to be elected from each of said districts by vote of only the electors within that district. Commissioners shall be elected for a period of three (3) years, or until their successors are elected and qualified. The terms of office of city commissioners shall be staggered so that the terms of office of all commissioners shall not expire the same year. At the Municipal General Election to be held in 1982, a majority of the commissioners shall be elected for a term of three (3) years; the remainder of the commissioners shall be elected for a term of two (2) years. In subsequent elections, all commissioners shall be elected for three (3) year terms to fill seats as terms expire in the respective districts. At the Municipal General Election of 1981, commissioners shall be elected at large in accordance with the Charter provisions in effect prior to the effective date of this Section; in order to effect the transition from the system of election at large, commissioners elected in 1981 shall be elected for a term of one (1) year so that the terms of all commissioners elected at large will expire simultaneously in 1982.

(b) In the event that Proposed Amendment No. 1 set forth hereinabove is not approved by the voters, this amendment changing the term of office from two (2) years to three (3) years shall be accomplished by amending Section 6 of the Charter to read as follows:

Sec. 6. Number; selection; term.

The City Commission shall consist of five (5) electors of the City, elected for a period of three (3) years, or until their successors are elected and qualified, and shall be elected from districts as heretofore described. Two (2) commissioners shall

be elected from District No. 1; one (1) commissioner shall be elected from District No. 2; and two (2) commissioners shall be elected from District No. 3. The terms of office of city commissioners shall be so staggered that the term of office of two (2) commissioners shall expire one year and the term of office of three (3) commissioners shall expire the following year. At the Municipal General Election to be held in 1981, one (1) commissioner each from District 1 and District 3 shall be elected for a term of three (3) years; at the Municipal General Election to be held in 1982, one (1) commissioner each from District 1, District 2 and District 3 shall be elected for a term of three (3) years. In all subsequent elections, commissioners shall be elected to fill seats as they expire in the respective districts.

PROPOSED AMENDMENT NO. 3

That Section 14 of the City Charter pertaining to vacancies in the City Commission shall be amended to read as follows:

Sec. 14. Vacancies in the City Commission.

If any vacancy occurs in the City Commission the commissioners shall elect within fifteen (15) days by majority vote an eligible person to fill the vacancy until the next general election, at which time the office shall be filled for the unexpired term; provided, however, that if more than six (6) months remain before the next general election there shall be a special election called to fill the vacancy. If a vacancy occurs and there remains less than sixty (60) days of the unexpired term then it shall be at the discretion of the City Commission as to whether the vacancy shall be filled. In case of sudden emergency or catastrophe resulting in three (3) or more vacancies simultaneously the city clerk shall forthwith hold a special general election to fill the vacancy and unexpired term of any commissioner whose term would not normally expire within sixty (60) days of the date of the vacancy. Where the term would expire within such

sixty (60) day period the Commission shall proceed to fill such vacancy by appointment if the appointment is needed to provide a constitutional majority, but otherwise the filling of such vacancy shall be at the discretion of the Commission. In the case of a tie vote to fill any vacancy the City Commission shall continue to ballot, but if the tie persists after four (4) ballots, the mayor, or in the event the mayor position is vacant, the vice-mayor shall appoint one of the persons who received votes in the tie balloting to fill the vacancy. Any person who has been recalled from office as a commissioner shall not be eligible for appointment to the Commission.

PROPOSED AMENDMENT NO. 4

That Section 245 of the Charter of the City of Pompano Beach, entitled Bonded indebtedness; Status of certain debt, shall be repealed in its entirety.

PROPOSED AMENDMENT NO. 5

That Section 104 of the Charter of the City of Pompano Beach pertaining to carry-over of unexpended appropriations shall be amended to read as follows:

Sec. 104. Carry-over of unexpended appropriations.

At the end of each fiscal year all unexpended appropriations shall revert to surplus; provided, however, that funds previously approved by the City Commission and appropriated for a construction, remodeling or refurbishing project that will increase the value of an asset classified as land, buildings or other improvements, and funds encumbered as of the end of the current fiscal year by a legal obligation such as a formal contract, purchase order or tuition refund program authorization shall continue and be considered a re-appropriation in the ensuing fiscal year.

PROPOSED AMENDMENT NO. 6

That Section 220 of the Charter of the City of Pompano Beach pertaining to vacating or abandoning public ways and easements shall be amended to read as follows:

Sec. 220. Vacating or abandoning public ways and easements.

The City Commission may, by ordinance, vacate or abandon easements, streets, alleys, highways or other dedicated public ways, or portions thereof, after determining that such abandonment or vacation will not have a detrimental effect to the surrounding property or area. The City Commission shall require a plat of the area showing such area after vacation and abandonment to be submitted with the request for abandonment. Any such request together with the required plat shall be submitted to the Planning Board and recommendation to the City Commission. All property owners whose property abuts a portion of a right-of-way, alley or easement proposed to be abandoned, and all property owners whose property will lose a means of access to any other public way as a result of the proposed abandonment or vacation shall be given an opportunity to be heard before the Planning Board after fifteen (15) days' notice by certified mail and at a public hearing before the City Commission after fifteen (15) days' notice has been given in a newspaper of general circulation in the municipality. Title to any property so vacated and abandoned shall revert to adjacent property owners. In the event that any request for abandonment is denied by the City Commission, no new request for the abandonment of the same parcel of land shall be submitted within one year from the date on which the prior request for abandonment was denied. Any request for abandonment shall be accompanied by an appropriate filing fee as determined by the City Commission.

PROPOSED AMENDMENT NO. 7

That subsection 94(1) of the Charter of the City of Pompano Beach pertaining to appropriation of unappropriated surplus from the previous fiscal year into an Insurance Reserve Fund shall be amended to read as follows:

(1) During the first thirty-one (31) days of the fiscal year, for the purpose of appropriating all or a portion of unappropriated surplus from the previous fiscal year into the Insurance Services Fund; and

PROPOSED AMENDMENT NO. 8

That Section 221 of the Charter of the City of Pompano Beach pertaining to establishment and membership of the Zoning Board of Appeals shall be amended to read as follows:

Sec. 221. Establishment and membership.

There is hereby created and established a Zoning Board of Appeals which shall consist of five (5) members, each of whom shall be a resident of the City of Pompano Beach, appointed by resolution of the City Commission, and each member shall be appointed for a term of three (3) years and removable for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Said Board, from its membership, shall elect a Chairman and Vice-Chairman, and each member of said Board shall serve without compensation. The Zoning Administrator shall meet with said Board in an advisory capacity but shall have no vote. The purpose of the Board is to hear and determine appeals from refusal of building permits and to permit special exceptions and/or variances from the terms of the zoning ordinances in harmony with its general purpose and intent, and in accordance with the principles, conditions and procedures specified in the ordinances.

PROPOSED AMENDMENT NO. 9

That the Charter of the City of Pompano Beach shall be amended by the addition of a new Section 263, said Section to read as follows:

Sec. 263. Rule of construction; gender.

Wherever this Charter refers to a person in the masculine gender it shall be deemed to include a person in the feminine gender as well.

PROPOSED AMENDMENT NO. 10

That the Charter of the City of Pompano Beach shall be amended by deleting therefrom Sections 87 through 104, inclusive, Section 244 and Section 244.1, which deleted Sections shall become ordinances of the City, subject to modification or repeal as other ordinances.

SECTION 2: That, in accordance with Section 261 of the City Charter and Section 166.031, Florida Statutes, the aforesaid approved Charter amendments shall be submitted to the electors of the City of Pompano Beach at a referendum election to be held in conjunction with the Municipal General Election on the 11th day of March, 1980. The substance of the amendments approved herein shall appear on the ballot in substantially the following form:

PROPOSED AMENDMENT NO. 1

To amend the City Charter by changing from the present three district system of election at large to a system of election by district whereby commissioners would be elected by vote of only the electors voting in the district within which the commissioner resides.

PROPOSED AMENDMENT NO. 2

To amend Section 6 of the City Charter by changing the term of office of city commissioners from two (2) years to three (3) years.

PROPOSED AMENDMENT NO. 3

To amend Section 14 of the City Charter by providing that, in the case of a tie vote to fill any vacancy on the City Commission, if the tie persists after four (4) ballots, the mayor, or in the event the mayor position is vacant, the vice-mayor shall appoint one of the persons who received votes in the tie balloting to fill the vacancy.

PROPOSED AMENDMENT NO. 4

To eliminate obsolete provisions of the City Charter pertaining to apportionment of bonded indebtedness at the time of the original incorporation of the present City of Pompano Beach in 1947 by repealing Section 245 of the Charter.

PROPOSED AMENDMENT NO. 5

To amend Section 104 of the City Charter pertaining to carry-over of unencumbered appropriations by providing that unexpended appropriations previously approved by the city commission and appropriated for a construction, remodeling or refurbishing project that will increase the value of an asset classified as land, buildings or other improvements, and funds encumbered by a tuition refund program authorization shall continue and be considered a re-appropriation in the ensuing fiscal year.

PROPOSED AMENDMENT NO. 6

To amend Section 220 of the City Charter pertaining to vacating or abandoning public ways and easements by adding a requirement that all property owners whose property abuts a portion of a

right-of-way, alley or easement proposed to be abandoned, and all property owners whose property will lose a means of access to any other public way as a result of the proposed abandonment shall be given notice and an opportunity to be heard before the Planning Board and the City Commission.

PROPOSED AMENDMENT NO. 7

To amend subsection 94(1) of the City Charter by deleting therefrom an obsolete reference to an Insurance Reserve Fund and substituting therefor a reference to the Insurance Services Fund.

PROPOSED AMENDMENT NO. 8

To amend Section 221 of the City Charter to provide that members of the Zoning Board of Appeals must be residents of the City.

PROPOSED AMENDMENT NO. 9

To amend the City Charter by adding a new section providing that references in the Charter to a person in the masculine gender shall include persons in the feminine gender.

PROPOSED AMENDMENT NO. 10

To amend the City Charter by deleting Sections 87 through 104 pertaining to budget procedures, Section 244 pertaining to the Insurance Reserve Fund, and Section 244.1 pertaining to the Disaster Reserve Fund, the deleted sections to become City ordinances.

SECTION 3: If any section or provision of this ordinance shall be held invalid, such holding shall not affect or invalidate any other section or provision which is not of itself invalid.

SECTION 4: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

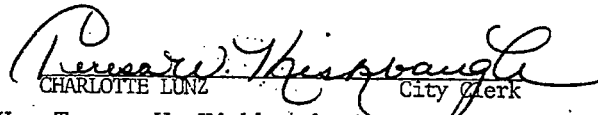
SECTION 5: This ordinance shall become effective upon passage.

PASSED FIRST READING this 18th day of December,
1979.

PASSED SECOND READING this 26th day of December,
1979.


EMMA LOU OLSON Mayor

ATTEST:


CHARLOTTE LUNZ City Clerk
BY: Teresa W. Kishbaugh, Deputy

DCR/lc
12/13/79
#70 DR

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE APPROVING CERTAIN CHANGES TO CHAPTER 57-1754, LAWS OF FLORIDA, SPECIAL ACTS OF 1957, AS SUBSEQUENTLY AMENDED AND SUPPLEMENTED OTHERWISE KNOWN AS THE CHARTER OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR SUBMISSION TO VOTERS FOR APPROVAL OR DISAPPROVAL AT THE MUNICIPAL SPECIAL ELECTION ON APRIL 18, 1978; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, seven (7) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the Commission Meeting Room of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

WHEREAS, certain proposed Charter amendments have been presented to the City Commission; and

WHEREAS, the City Commission has duly considered same and by passage of this ordinance desires to approve such proposed Charter amendments as indicated herein; and

WHEREAS, Section 261 of the City Charter and Section 166.031, Florida Statutes, provide for the method of amending the City Charter; now, therefore

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1: That the following proposed amendments to Chapter 57-1754, Laws of Florida, Special Acts of 1957, as subsequently amended and supplemented, otherwise known as the Charter of the City of Pompano Beach, Florida are hereby approved for submission to the voters of the City of Pompano Beach, Florida:

1. That Section 16 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 16. Induction of commission into office; meeting of commission.

The first meeting of each newly elected commission, for induction into office, shall be held at 12:00 o'clock noon on a day established

by ordinance, after which the commission shall meet at such times and places as may be prescribed by its rules, but not less frequently than twice each month; provided, however, that the commission may designate one four-week period each year during which no meetings of the City Commission are required to be held.

2. That Section 29 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 29. Absence of the City Manager.

In the case of the absence or disability of the City Manager for a period of fourteen (14) days or less, the City Manager may designate by letter to the City Commission the Assistant City Manager to perform the duties of the office. If the City Manager should be absent or disabled for a period of fourteen (14) days or less and there should be no Assistant City Manager, then the City Manager may designate by letter to the City Commission a qualified person who is currently employed by the City in a supervisory capacity to assume his duties. If the City Manager should fail to do so, or in the case of the absence or disability of the City Manager for a period in excess of fourteen (14) days, the City Commission shall designate by resolution the Assistant City Manager or other qualified person who is currently employed by the City in a supervisory capacity to perform the duties of the office.

3. That Section 62 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 62. City Attorney; appointment and qualifications.

The City Commission shall appoint a City Attorney who and such assistant attorneys as may be necessary, shall act as the legal advisor to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. He shall be a lawyer of at least two (2) years experience and practice in the Court of the State of Florida. He shall prepare all contracts, bonds, leases and other instruments in writing in which the municipality is concerned, and shall endorse on each his approval of the form and

correctness thereof, but failure to do so shall not affect its validity.

When required to do so by the City Commission, he shall prosecute and defend for and in behalf of the City, all civil complaints, suits and controversies in which the City is a party. He shall furnish the City Commission, the City Manager, the head of any department, or any officer, board, commission or agency not included in any department, his opinion on any question of law relating to their respective powers and duties. In addition to the duties specifically imposed under the preceding section, he shall perform such other professional duties as may be required of him by ordinance or resolution of the City Commission, or as are prescribed for city attorneys under the general law of the State, which are not inconsistent with this Charter and with any ordinance or resolution which may be passed by the City Commission.

4. That Section 67 of the Charter of the City of Pompano Beach entitled Registration of voters (electors), shall be repealed in its entirety.

5. That Section 70 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 70. Elections; general.

A regular or general election of candidates or nominees to the office of City Commissioner shall be held each year, on a day established by law. The candidate or nominee receiving the greatest number of votes for each seat at such general election shall be declared elected. In the event of a tie between two candidates for any seat upon the City Commission in the general election, another election shall be held on the Tuesday following the general election and the two candidates receiving the equal votes shall be the only candidates on the ballot for such general election. In any general election the voters of all districts shall use the same ballot and vote for as many nominees from respective districts as there are vacancies on the Commission to be filled from such districts.

6. That Section 71 of the Charter of the City of Pompano Beach entitled Elections; write-in of candidates, shall be repealed in its entirety.

7. That Section 74 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 74. Elections; canvass of returns.

The polls shall open at seven o'clock a.m. and shall close at seven o'clock p.m. The result of the voting, when ascertained, shall be submitted to the City Clerk by the Supervisor of Elections of Broward County. Said returns shall be submitted by the City Clerk to the City Commission at the next City Commission meeting following said election, at which time the City Commission shall certify the results of the election by resolution. The City Clerk shall, after the certification of said election, furnish a certificate of election to each person shown to have been elected.

8. That Section 216 of the Charter of the City of Pompano Beach, pertaining to rules, regulations and procedures for the City Zoning Board, shall be amended by the addition of a second paragraph, said paragraph to read as follows:

The City Commission shall by resolution appoint three (3) alternate members of the Zoning Board, to be designated as Alternate 1, Alternate 2 and Alternate 3. Each alternate member shall be appointed for a term of three (3) years, said terms to run concurrently, and shall be subject to removal for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any alternate member whose term becomes vacant. In case of temporary absence or disqualification of any member of the Zoning Board, the Chairman of the Board shall have the right and authority to designate one of such alternate members to serve as a substitute on the Zoning Board during the continuance of such absence or disqualification. The Chairman shall rotate such assignments among the three (3) alternate members unless unavailability of an alternate or alternates make such rotation impossible. No substitute shall serve in such capacity for a longer period than three (3) months, nor shall more than two (2)

substitutes serve on the Board at any time. In cases where substitutes are designated to serve for such limited periods, such facts shall be recorded in the official minutes of the Zoning Board before such substitute shall act in any matter presented to the Board, and while serving, substitutes shall have the same powers as regular members.

9. That Section 250 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Sec. 250. Leases.

The City of Pompano Beach is hereby authorized and empowered to lease any lands, improvements, public buildings, recreational parks or facilities, public utility plants, or any public works or property of the City to any person, firm or corporation under the following conditions:

- (a) Leases may be authorized by ordinance of the City Commission duly enacted by approval of a majority of the City Commission.
- (b) Leases containing provisions requiring the lessee to construct building(s) and/or other capital improvements may be authorized for a period of time not exceeding thirty (30) years, including any renewal options contained therein. All other leases may be authorized for a period of time not exceeding ten (10) years, including any renewal options contained therein. Leases requiring lessees to construct building(s) and/or other capital improvements shall specify the dollar amount to be expended by the lessee for such building(s) and/or capital improvements and shall require that at least fifty (50%) percent of such dollar amount shall be expended during the first two years of the lease and that the remainder of such amount, if any, shall be expended during the second two years of the lease.

(c) The City Attorney shall prepare all leases in accordance with Section 62 of the City Charter. All leases shall be for a definite period of time, shall be in writing, executed in duplicate, with one copy retained by the City of Pompano Beach. Such leases shall be signed by the officer of the City designated by Charter.

SECTION 2: That, in accordance with Section 261 of the City Charter, and Section 166.031, Florida Statutes, the aforesaid approved Charter amendments shall be submitted to the electors of the City of Pompano Beach at a special election to be held on the 18th day of April, 1978. The substance of the amendments approved herein shall appear on the ballot in substantially the following form:

PROPOSED CHARTER AMENDMENTS

PROPOSED AMENDMENT NO. 1

To amend Section 16 of the City Charter by eliminating an obsolete reference to the fourth Tuesday in February as the day on which newly elected Commissioners shall be inducted into office, and providing instead that newly elected Commissioners shall be inducted into office on a day established by ordinance, and by eliminating obsolete exceptions to the requirement that City Commission meetings shall be open to the public.

PROPOSED AMENDMENT NO. 2

To amend Section 29 of the City Charter by providing that the City Manager may designate the Assistant City Manager to assume the duties of the City Manager in the case of absence or disability of the City Manager for a period of fourteen (14) days or less, further providing that, should there be no Assistant City Manager, the City Manager may

designate a qualified person currently employed by the City in a supervisory capacity, and further providing that, if the City Manager should fail to so designate, or in the case of absence or disability of the City Manager for a period in excess of fourteen (14) days, the City Commission shall designate by resolution the Assistant City Manager or other qualified person currently employed by the City in a supervisory capacity to perform the duties of the office.

PROPOSED AMENDMENT NO. 3

To amend Section 62 of the City Charter to add leases to the specified instruments in writing which are to be prepared by the City Attorney.

PROPOSED AMENDMENT NO. 4

To eliminate obsolete provisions of the City Charter pertaining to registration of voters and write-in of candidates by repealing Sections 67 and 71 of the Charter.

PROPOSED AMENDMENT NO. 5

To amend Section 70 of the City Charter pertaining to general elections by eliminating an obsolete reference to the third Tuesday in February and providing instead that the general election of the City shall be held on a day established by law, and by eliminating an obsolete reference to primary elections.

PROPOSED AMENDMENT NO. 6

To amend Section 74 of the City Charter pertaining to canvass of election returns by eliminating obsolete provisions relating to canvass of elections by the City Commission and substituting therefor provisions for certification by the City Commission

of election returns submitted by the Supervisor of Elections
of Broward County, in accordance with State law.

PROPOSED AMENDMENT NO. 7

To amend Section 216 of the City Charter by adding a provision
that the City Commission shall appoint three (3) alternate members
of the Zoning Board to serve on said Board in case of temporary
absence or disqualification of any member of said Board.

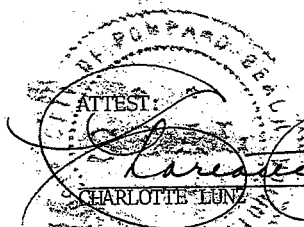
PROPOSED AMENDMENT NO. 8

To amend Section 250 of the City Charter pertaining to leases
to provide that leases containing provisions requiring the
lessee to construct building(s) and/or capital improvements
may be authorized for a period of time not exceeding thirty
(30) years; providing that the dollar amount of such improve-
ments must be specified in the lease, and that at least fifty
(50%) percent of said dollar amount must be expended during
the first two years of the lease with the remainder to be
expended during the second two years of the lease; providing
that leases not requiring the lessee to construct building(s)
and/or capital improvements may be authorized for a period of
time not exceeding ten (10) years.


SECTION 3: This ordinance shall become effective upon passage.

PASSED FIRST READING this 21st day of February, 1978.

PASSED SECOND READING this 28th day of February, 1978.



DCR/12
2/17/78/Rev: 2/23/78
#114


J. MAXIM RYDER, Vice Mayor

City Clerk

CITY OF POMPAÑO BEACH
Broward County, Florida

AN ORDINANCE APPROVING CERTAIN CHANGES TO CHAPTER 57-1754, LAWS OF FLORIDA, SPECIAL ACTS OF 1957, AS SUBSEQUENTLY AMENDED AND SUPPLEMENTED, OTHERWISE KNOWN AS THE CHARTER OF THE CITY OF POMPAÑO BEACH, FLORIDA; PROVIDING FOR SUBMISSION TO VOTERS FOR APPROVAL OR DISAPPROVAL AT THE MUNICIPAL GENERAL ELECTION OF MARCH 8, 1977; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, seven (7) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the Commission Meeting Room of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held, pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; and

WHEREAS, certain proposed Charter amendments have been presented to the City Commission; and

WHEREAS, the City Commission has duly considered same and by passage of this Ordinance desires to approve such proposed Charter amendments as indicated herein; and

WHEREAS, Section 261 of the City Charter and Section 166.031, Florida Statutes, provide for the method of amending the City Charter; now, therefore

BE IT ENACTED BY THE CITY OF POMPAÑO BEACH, FLORIDA:

SECTION 1: That the following proposed amendments to Chapter 57-1754, Laws of Florida, Special Acts of 1957, as subsequently amended and supplemented, otherwise known as the Charter of the City of Pompano Beach, Florida, are hereby approved for submission to the voters of the City of Pompano Beach, Florida:

PROPOSED AMENDMENT NO. 1

That Section 253, Sale of public property, of the Charter of the City of Pompano Beach shall be amended by amending subsection (h) thereof to read as follows:

(h) Transfer to Governmental Agencies

The City of Pompano Beach may sell or transfer any of its property to any other governmental agency, if the City Commission finds that 1) a transfer of the property to the other governmental agency shall provide a benefit to the City of Pompano Beach, and 2) that a transfer to any other party other than that governmental agency would not provide the same benefit to the people of Pompano Beach, and 3) that the compensation to be received by the City of Pompano Beach is fair and equitable, and 4) that the governmental agency to which the land is being transferred would in any event have the power of eminent domain over said property. The procedure of public notice shall apply.

PROPOSED AMENDMENT NO. 2

That Section 102, entitled Proposed expenditures; comparison with other years, of the Charter of the City of Pompano Beach shall be repealed.

PROPOSED AMENDMENT NO. 3

That Section 220 of the Charter of the City of Pompano Beach shall be amended to read as follows:

Section 220. Vacating or abandoning public ways and easements.

The City Commission may, by ordinance, vacate or abandon easements, streets, alleys, highways or other dedicated public ways, or portions thereof, after determining that such abandonment or vacation will not have a detrimental effect to the surrounding property or area. The City Commission shall require a plat of the area showing such area after vacation and abandonment to be submitted with the request for abandonment. Any such request together with the required plat shall be submitted to the Planning Board and recommendation to the City Commission. The affected property owner shall be given an opportunity to be heard at a public hearing before the City Commission after fifteen (15) days' notice has been given in a newspaper of general circulation in the municipality. Title to any property so vacated and abandoned

shall revert to adjacent property owners. In the event that any request for abandonment is denied by the City Commission, no new request for the abandonment of the same parcel of land shall be submitted within one year from the date on which the prior request for abandonment was denied.

PROPOSED AMENDMENT NO. 4

That Section 227, Appeal to court, of the Charter of the City of Pompano Beach shall be amended to read as follows:

Section 227. Appeal to court.

Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Board of Appeals, may petition the Circuit Court for issuance of a Writ of Certiorari, appealing such decision, in whole or in part, and specifying the grounds for the appeal in the manner and within the time provided by the Florida Appellate Rules.

PROPOSED AMENDMENT NO. 5

That Section 222, Substitute members, of the Charter of the City of Pompano Beach shall be amended to read as follows:

Section 222. Substitute members.

The City Commission shall by resolution appoint three (3) alternate members of the Zoning Board of Appeals, to be designated as Alternate 1, Alternate 2, and Alternate 3. Each alternate member shall be appointed for a term of three (3) years, said terms to run concurrently, and shall be subject to removal for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any alternate member whose term becomes vacant. In case of temporary absence or disqualification of any member of the Zoning Board of Appeals, the Chairman of the Board shall have the right and authority to designate one of such alternate members to serve as a substitute on the Zoning Board of Appeals during the continuance of such

absence or disqualification. The Chairman shall rotate such assignments among the three (3) alternate members unless unavailability of an alternate or alternates makes such rotation impossible. No substitute shall serve in such capacity for a longer period than three (3) months, nor shall more than two (2) substitutes serve on the Board of Appeals at any time. In cases where substitutes are designated to serve for such limited periods, such facts shall be recorded in the official minutes of the Zoning Board of Appeals before such substitute shall act in any matter presented to the Board and, while serving, substitutes shall have the same powers as regular members.

PROPOSED AMENDMENT NO. 6

That Section 261, Procedure for charter changes, of the Charter of the City of Pompano Beach shall be amended to read as follows:

Section 261. Procedure for charter changes.

This Charter may be amended, changed or added to at any time by a resolution passed by an affirmative vote of a majority of the City Commission and ratified by a majority of the votes cast by the qualified electors of the City at a general or special election held for that purpose, after being advertised once a week for four consecutive weeks, within thirty days prior thereto.

Additionally, the Charter of the City of Pompano Beach may from time to time be amended by duly enacted acts of the Legislature of the State of Florida; but no special act of the Legislature shall have the effect of amending the Charter of the City of Pompano Beach unless notice of local legislation has been published as required by the State Constitution before such amendment is introduced in the Legislature and unless such notice specifically states that such local law will amend this Charter. This section shall not preclude the use of Charter amendment processes which may now or hereafter be provided in the General Acts of the State of Florida.

SECTION 2: That, in accordance with Section 261 of the City Charter, and Section 166.031, Florida Statutes, the aforesaid approved

Charter amendments shall be submitted to the electors of the City of Pompano Beach at the municipal general election to be held on the 8th day of March, 1977.

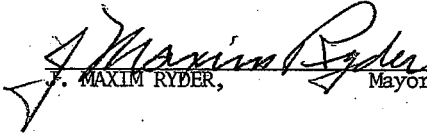
SECTION 3: If any section or provision of this ordinance shall be held invalid, such holding shall not affect or invalidate any other section or provision which is not of itself invalid.

SECTION 4: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

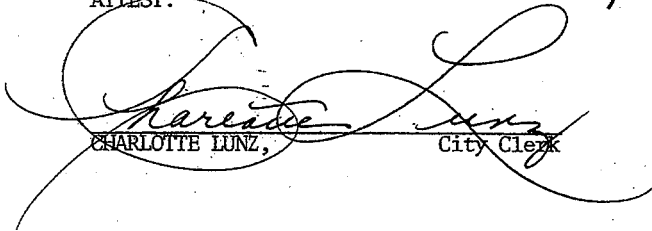
SECTION 5: This ordinance shall become effective upon passage.

PASSED FIRST READING this 18th day of January,
1977.

PASSED SECOND READING this 25th day of January,
1977.


J. MAXIM RYDER, Mayor

ATTEST:


CHARLOTTE LUNZ, City Clerk

DCR/Ic
1/4/77
#74 