

ORDINANCE NO. 2010-10

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, PROPOSING AMENDMENTS TO THE TOWN'S CHARTER, AS DELINEATED IN EXHIBIT "A" ATTACHED; ALONG WITH THE PROPOSED BALLOT QUESTIONS, AS DELINEATED IN EXHIBIT "B" ATTACHED; DIRECTING THE TOWN ADMINISTRATOR TO WORK WITH THE SUPERVISOR OF ELECTIONS TO HOLD A REFERENDUM IN CONJUNCTION WITH THE NOVEMBER 2, 2010 GENERAL ELECTION, TO ALLOW THE TOWN'S ELECTORATE TO DETERMINE IF THE TOWN'S CHARTER SHOULD BE AMENDED; DIRECTING THE TOWN CLERK TO PROVIDE PROPER NOTICE FOR THE REFERENDUM; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 7.02 (a) (1) of the Charter of the Town of Southwest Ranches provides that the Town Council may by Ordinance propose amendments to the Town's Charter; and

WHEREAS, upon passage of the initiating ordinance the proposed amendments shall be submitted to a vote of the electors at the next general election or at a special election; and

WHEREAS, the Town Council desires the following Charter amendments to be submitted to the Town's electorate; and

WHEREAS, the Town Council has authorized the Town Administrator to work with the Supervisor of Elections to place its referendum questions on the November 2, 2010, general election ballot;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: The Town Council hereby proposes amendments to the Town's Charter, as delineated in Exhibit "A" attached, along with the proposed Ballot Questions delineated in Exhibit "B" attached.

Section 3: The Town Council hereby directs the Town Administrator to work with the Supervisor of Elections to hold a referendum in conjunction with the November 2, 2010 general election, to allow the Town's electorate to determine if the Town's Charter should be amended.

Section 4: The Town Council hereby directs the Town Clerk to provide proper notice for the referendum and to coordinate with the Supervisor of Elections to have the referendum placed on the ballot.

Section 5: Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 6: Severability. If any portion of this Ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this Ordinance. If any Court determines that this Ordinance, or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies), or circumstance(s), such determination shall not

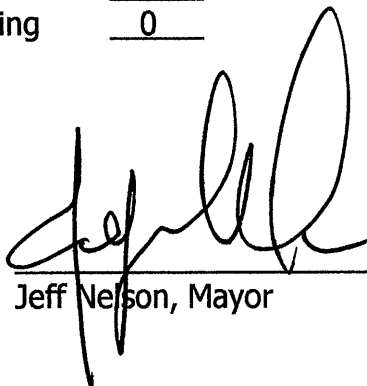
affect the applicability hereof to any other individual, group, entity, property or circumstance.

Section 7: Effective Date. This Ordinance shall be effective immediately upon its adoption.

PASSED ON FIRST READING this 3rd day of June, 2010 on a motion made by Vice Mayor Knight and seconded by Council Member Breitzkreuz.

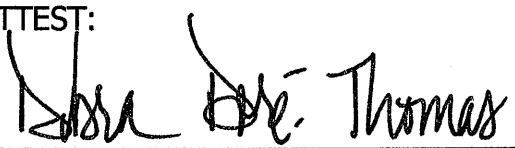
PASSED AND ADOPTED ON SECOND READING this 17th day of June, 2010, on a motion made by Council Member Breitzkreuz and seconded by Council Member McKay.

Nelson	<u>AYE</u>	Ayes	<u>3</u>
Knight	<u>NO</u>	Nays	<u>2</u>
Breitzkreuz	<u>AYE</u>	Absent	<u>0</u>
Fisikelli	<u>NO</u>	Abstaining	<u>0</u>
McKay	<u>AYE</u>		



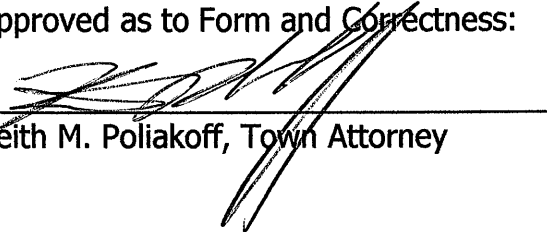
Jeff Nelson, Mayor

ATTEST:



Debra Doré-Thomas, CMC, Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, Town Attorney

EXHIBIT "A"

CHARTER AMENDMENTS

The Electorate will be asked whether the Charter should be amended to effectuate the following changes:

1. Section 2.05 Qualifications

Except as provided in [former] Section 9.03(c) [now repealed], candidates for Council member shall qualify for election by the filing of a written notice of candidacy with the Clerk of the Town at such time and in such manner as may be prescribed by ordinance and payment to the Clerk of the sum of \$100.00, plus any fees required by Florida Statutes, as a qualifying fee. A person may not be a candidate for more than one office in the same election. Due to the Town's unique Charter, Comprehensive Land Use Plan, rural lifestyle, topography, traffic, and drainage issues, Only electors of the Town who have resided continuously in the Town for at least ± two (2) years preceding the date of such filing and are registered voters within the Town shall be eligible to hold the office of Council member. If at the conclusion of the qualifying period no elector shall have filed for candidacy, the Council seat shall be open for a period of 5 days and any qualified elector who has resided in the Town continuously for at least ± two (2) years preceding the date of such filing and are registered voters within the Town may file a written notice of candidacy for said Council seat in accordance with the remaining provisions of this section.

2. **Section 2.06. Vacancies; forfeiture of office; filling of vacancies.**

(a) *Vacancies.* The office of a Council member shall become vacant upon his or her death, resignation, or removal from office in any manner authorized by law or by forfeiture of his or her office.

(b) *Forfeiture Of Office.*

(1) *Forfeiture by disqualification.* A Council member shall forfeit his or her office if at any time during his or her term he or she ceases to maintain his or her permanent residence in the Town or if he or she otherwise ceases to be a qualified elector of the Town.

(2) *Forfeiture by removal.* In the event that a Council member is removed from office by executive order pursuant to Article IV, Section 7, of the Florida Constitution, as may be amended from time to time, that Council member shall be prohibited from regaining office until cleared of the charges that lead to that Council Member's removal.

~~(2)~~(3) *Forfeiture by absence.* A Council member shall be subject to forfeiture of his or her office, in the discretion of the remaining Council members, if he or she is absent without good cause from any three consecutive regular meetings of the Council during any calendar year or if he or she is absent without good cause from any four regular meetings of the Council within any 12-month period.

~~(3)~~(4) *Procedures.* The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Council member's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Council member in question; however, any Council member may at any time during any duly held meeting move to establish good cause for his or her absence or the absence of any other Council member, from any past, present, or future meeting or meetings, which motion, if carried, shall be conclusive. A Council member whose qualifications are in question or who is otherwise subject to forfeiture of his or her office shall not vote on any such matters. The Council member in question shall be entitled to a public hearing on requests regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the Town at least 1 week in advance of the hearing. Any final determination by the Council that a Council member has forfeited his or her office shall be made by resolution. All votes and other acts of the Council member in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

3. **Section 2.07. Compensation; reimbursement for expenses.**

(a) The Council members shall be compensated at the rate of \$1,000 per month. The Mayor shall be compensated at the rate of \$1,250.00 per month. The amount of the Council's compensation can only be increased, above the previously stated amounts, by the electorate in a referendum held in conjunction with the even-numbered year general election. The Council may decrease its compensation by Ordinance at any time. In addition to the aforementioned, the Council members and Mayor may participate in the Florida Retirement System, provided that the Town is not required to pay an additional amount for that Council member or Mayor's participation. ~~which additional expense shall be borne by the Town as additional compensation.~~ The Mayor and Council shall receive reimbursements in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized travel and per diem expenses incurred in the performance of their official duties.

(b) An ordinance establishing, increasing, or decreasing compensation of the Mayor or Council may be adopted at any time, subject to the requirements set forth in subsection (a) above.; ~~however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the first month following the first regular election of the Town subsequent to the adoption of such ordinance.~~

4. **Section 3.11. Town Financial Administrator.**

The Town Council shall have the authority to appoint a Financial Administrator and to delegate to the Financial Administrator such powers and duties which the Council deems necessary and appropriate. To the extent that the powers and duties of the Financial Administrator overlap with the powers and duties of the Town Administrator, the powers and duties delegated to the Financial Administrator shall control. The Financial Administrator shall report to work in concert with the Town Administrator for daily supervision, but shall report directly to the Town Council concerning the Town's financial affairs. ~~The Council however the Financial Administrator shall report directly to the Council, which~~ alone shall have the authority to appoint and to remove the Financial Administrator. Appointment and removal of the Financial Administrator shall be by a vote of a majority of the Council. The Financial Administrator shall be bound by the State of Florida's Code of Ethics, as delineated in Chapter 112, Florida Statutes [F.S. ch. 112] as may be amended from time to time.

5. **Section 7.02. Procedure to amend.**

- (a) *Initiation.* This Charter may be amended in two ways:
 - (1) *By ordinance.* The Council may, by ordinance, propose amendments to this Charter and, upon passage of the initiating ordinance, shall submit the proposed amendment to a vote of the electors at the next general election held within the Town or at a special election called for such purpose.

(2) *By petition.* The electors of the Town may propose amendments to this Charter by petition pursuant to the requirements of F.S. ch. 166, as amended.

(b) *Submission to electors.* Upon certification of the sufficiency of a petition, the Council shall submit the proposed amendment to a vote of the electors at a general election or special election to be held not less than 60 days or more than 120 days from the date on which the petition was certified or at a special election called for such purpose.

(c) *Results of election.* If a ~~majority~~ sixty (60) percent of the qualified electors voting on a proposed amendment votes for its adoption, it shall be considered adopted upon certification of the election results. If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

6. **Section 4.01. Council meeting procedure.**

(a) *Meetings.* The Council shall hold at least 11 monthly meetings in each fiscal year at such times and places as the Council may prescribe by rule. No meeting shall extend beyond 11:00 p.m. local time. Notwithstanding the aforesaid, the Council may conclude debate and voting on any agenda item under consideration at 11:00 p.m. An item tabled during the normal course of business is not deemed to be an item being

debated and, accordingly, cannot be considered after 11:00 p.m. Notwithstanding the aforesaid, any item which is on the agenda, including tabled items, can be considered and voted on after 11:00 p.m., provided that prior to 11:00 p.m., a motion is made and carried by the unanimous vote of the Town Council, present and voting, to take up an item(s) after 11:00 p.m. Special meetings may be held on the call of the Mayor or upon the call of three members of the Council, and upon no less than 24 hours' notice to each member and the public, or such shorter time as a majority of the Council shall deem necessary in case of an emergency affecting life, health, property, or the public peace.

(b) *Quorum and voting.* Except as otherwise provided in this Charter, any three members of the Council shall constitute a quorum. The affirmative vote of three members of the Council shall be required for any legislative action with the exception of quasi-judicial items relating to land use and zoning, which shall be governed by Section 5.01. All voting shall be by roll call.

(c) *Council member and Mayor voting conflicts.* As more fully set forth and defined is Florida Statutory Section 112.3143, as may be amended from time to time, no variances, re-zonings, or land use modifications, may come before the Council which would inure to a Council Member or Mayor's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in Florida Statutory

Section 112.312(2), as may be amended from time to time; or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer, until that Council Member or Mayor is no longer serving on the Council.

EXHIBIT "B"

Ballot Questions

The Electorate will be asked the following ballot questions:

**SOUTHWEST RANCHES
AMENDMENT #1
CANDIDATE QUALIFICATIONS**

Currently, the Town has a one year residency requirement prior to being eligible to run for the Town Council. Due to the Town's unique Charter, Comprehensive Land Use Plan, rural lifestyle, traffic, and drainage issues, the proposed amendment provides for a two year residency requirement.

Shall the above-described amendment be adopted?

YES
NO

**SOUTHWEST RANCHES
AMENDMENT #2
Forfeiture of Office By Removal**

Currently, the Town's Charter does not address a Council Member's forfeiture from office by removal by an executive order. The proposed amendment prohibits a Council Member from regaining office until cleared of the charges that lead to that Council Member's removal.

Shall the above-described amendment be adopted?

YES
NO

SOUTHWEST RANCHES
AMENDMENT #3
Council Compensation

Currently, the Town Council, which sets its own compensation, receives \$1,000 per month for Council Members and \$1,250 per month for the Mayor. The proposed amendment limits a Council Member's maximum total compensation to \$1,000 per month and the Mayor's total compensation to \$1,250 per month unless an increase is approved by the electorate in a referendum held in conjunction with the even-numbered year general election. The Council may reduce its total compensation by Ordinance at any time.

Shall the above-described amendment be adopted?

YES
NO

SOUTHWEST RANCHES
AMENDMENT #4
Town Financial Administrator

Currently, the Town's Financial Administrator reports directly to the Council. The proposed amendment provides that the Financial Administrator shall report to the Town Administrator for daily supervision, but shall report directly to the Town Council concerning the Town's financial affairs.

Shall the above-described amendment be adopted?

YES
NO

SOUTHWEST RANCHES
AMENDMENT #5
Charter Amendments

Currently, the Town's Charter provides for a Charter Amendment by a majority vote of the qualified electors. The proposed amendment provides for a Charter Amendment by a vote of sixty percent of the qualified electors.

Shall the above-described amendment be adopted?

YES
NO

SOUTHWEST RANCHES
AMENDMENT #6
Council Member Voting Conflicts

Currently, the Town's Charter does not address Council voting conflicts. The proposed amendment prevents a variance, re-zoning, or land use modification from being considered by the Council if that item would inure to any of the Council Member's special private gain or loss, the special private gain or loss of any principal by which any of the Council Members are retained, the special private gain or loss of any of the Council Members' relatives, or business associates, until that Council Member is no longer serving on the Council.

Shall the above-described amendment be adopted?

YES
NO

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