

1 EXHIBIT 1
2 ORDINANCE NO. 2022-
3

4 AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF
5 THE CITY OF HALLANDALE BEACH, FLORIDA, SUBMITTING
6 TO REFERENDUM AN AMENDMENT TO THE CHARTER OF
7 THE CITY OF HALLANDALE BEACH TO PROVIDE THAT ALL
8 CHARTER OFFICERS REPORTING TO THE COMMISSION
9 SHALL HAVE AN EMPLOYMENT AGREEMENT, REMOVAL
10 PROCESS AND REQUIRE A SUPERMAJORITY FOR REMOVAL
11 FOR CAUSE; PROVIDING THAT THIS ORDINANCE SHALL BE
12 SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY OF
13 HALLANDALE BEACH ON THE NOVEMBER 8, 2022 GENERAL
14 ELECTION BALLOT; PROVIDING FOR CODIFICATION;
15 PROVIDING FOR CONFLICT; PROVIDING FOR
16 SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

17
18 WHEREAS, Chapter 166, Florida Statutes, as amended, provides for the process for
19 amendment of municipal charters which includes submission of a proposed amendment by
20 ordinance to a referendum vote; and

21 WHEREAS, the Charter Review Committee for the City of Hallandale beach has reviewed
22 the Charter and proposed certain amendments thereto; and

23 WHEREAS, the City Commission has determined that amendment of the charter in the
24 manner stated herein is in the best interest of the residents of the City of Hallandale Beach.

25 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF
26 HALLANDALE BEACH, FLORIDA:

27 SECTION 1. If approved, Article VI "City Commission," Section 6.01 "City Attorney," of
28 the Charter shall be amended as follows:

29 **Sec. 6.01: - City attorney.**

30 (1) There shall be a city attorney of the city, appointed ~~or removed,~~ by a majority
31 of the full commission, who shall direct and supervise the city attorney's office,
32 and who shall serve as chief legal advisor to the commission, the city manager
33 and all city departments, offices and agencies and who shall assure that the city
34 is represented in all legal proceedings and perform any other duties prescribed
35 by this Charter or by ordinance. The city attorney shall provide an annual budget
36 for consideration by the city commission. The city commission shall include in its
37 annual budget for each fiscal year such sum as necessary for the city attorney to

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38 carry out his or her duties. The city attorney shall receive such compensation as
39 the city commission may fix and determine. The commission and the city attorney
40 shall enter into a written employment agreement setting the initial compensation
41 and other terms of employment.

42 (2) The commission may remove the city attorney in accordance with the
43 following procedures:

44 (a) *Motion for Removal.* The city attorney serves at the will of the
45 commission and may be removed with or without cause. To initiate
46 removal of the city attorney, a majority of the full commission must
47 approve a motion to remove the City Attorney. If the Motion is approved,
48 the Commission shall appoint, in a manner of their choosing, outside legal
49 counsel to represent the commission for the removal proceedings.

50 (b) *Resolution of Proposed Removal.* Within (15) days of the motion for
51 removal, the commission shall adopt by affirmative vote of a majority of all
52 its members a resolution which must state the reasons for proposed
53 removal and may thereupon suspend the city attorney from duty for a
54 period not to exceed forty-five (45) days. The reasons stated therein need
55 not constitute "cause" pursuant to paragraph (e) below, but shall plainly
56 state the basis or reason for removal. A copy of the resolution shall be
57 delivered promptly to the city attorney.

58 (c) Within five (5) days after a copy of the resolution is delivered to the
59 city attorney, he or she may file with the commission a written request for
60 a public hearing. This hearing shall be held at a commission meeting not
61 earlier than fifteen (15) days nor later than thirty (30) days after the
62 request is filed. The city attorney may file with the commission a written
63 reply not later than five (5) days before the hearing.

64 (d) *Resolution of Removal.* The commission may adopt a resolution of
65 removal, which may be made effective immediately, by affirmative vote of
66 a majority of all its members at any time after five (5) days from the date
67 when a copy of the suspension resolution was delivered to the city
68 attorney if he or she has not requested a public hearing, or at any time
69 after affording the city attorney an opportunity to publicly address the
70 stated basis or reasons for removal the public hearing if he or she has
71 requested a public hearing. The city attorney shall continue to receive his
72 or her salary until the effective date of a resolution of removal.

73 (e) *Resolution Determining Termination for Cause.* If Removal for Cause
74 is desired, the factual basis for a finding pursuant to this paragraph must
75 be provided in writing to the city attorney at least ten (10) days prior to the
76 adoption of the Resolution of Removal pursuant to paragraph (3).
77 Subsequent to the approval of the Resolution of Removal, the
78 commission may consider this second resolution for the purpose of
79 avoidance of severance pay. The commission will determine if there is

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sufficient and competent evidence for a reasonable person to find Cause for Termination, as defined in the Employment Agreement, and state the findings of fact supporting that determination. The Resolution Determining Termination for Cause is not required but, if considered, must be considered as a separate item at the same meeting at which the Resolution of Removal is approved. The commission may approve a Resolution Determining Termination for Cause only by an affirmative vote of four (4) commissioners.

SECTION 2. If by separate referendum, the voters approve designation of the City Clerk as a direct-report to the City Commission, Article VI "City Commission," Section 6.02 "City Clerk," of the Charter shall be further amended as follows:

Sec. 6.02: - City clerk.

(1) The commission shall appoint a city clerk by a majority vote of the full commission. The city clerk shall give notice of meetings of the city commission, prepare agendas, shall keep the journal of its proceedings, shall authenticate by his signature on record in full the book kept for the purpose of recording ordinances and resolutions of the commission, shall be the custodian of the seal and of all official city records, and shall perform such duties as shall be required by state law, this Charter, or by city ordinance. The city clerk shall be chosen solely on the basis of executive and administrative qualifications, and shall be a Certified Municipal Clerk as designated by the International Institute of Municipal Clerks. The city clerk shall receive such compensation as the city commission may fix and determine. The city commission and the city clerk shall enter into a written employment agreement setting the intital compensation and other terms of employment.

(2) The commission may remove the city clerk in accordance with the following procedures:

(a) Motion for Removal. The city clerk serves at the will of the commission and may be removed with or without cause. To initiate removal of the city clerk, a majority of the full commission must approve a motion to remove the city clerk. If the Motion is approved, the Commission shall appoint, in a manner of their choosing, outside legal counsel to represent the commission for the removal proceedings.

(b) Resolution of Proposed Removal. Within (15) days of the motion for removal, the commission shall adopt by affirmative vote of a majority of all its members a resolution which must state the reasons for proposed removal and may thereupon suspend the city clerk from duty for a period not to exceed forty-five (45) days. The reasons stated therein need not constitute "cause" pursuant to paragraph (e) below, but shall plainly state

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120 the basis for removal. A copy of the resolution shall be delivered
121 promptly to the city clerk.

122 (c) Within five (5) days after a copy of the resolution is delivered to the
123 city clerk, he or she may file with the commission a written request for a
124 public hearing. This hearing shall be held at a commission meeting not
125 earlier than fifteen (15) days nor later than thirty (30) days after the
126 request is filed. The city clerk may file with the commission a written reply
127 not later than five (5) days before the hearing.

128 (d) *Resolution of Removal.* The commission may adopt a resolution of
129 removal, which may be made effective immediately, by affirmative vote of
130 a majority of all its members at any time after five (5) days from the date
131 when a copy of the suspension resolution was delivered to the city clerk if
132 he or she has not requested a public hearing, or at any time after
133 affording the city clerk an opportunity to publicly address the stated basis
134 or reasons for removal the public hearing if he or she has requested a
135 public hearing. The city clerk shall continue to receive his or her salary
136 until the effective date of a resolution of removal.

137 (e) *Resolution Determining Termination for Cause.* If Removal for Cause
138 is desired, the factual basis for a finding pursuant to this paragraph must
139 be provided in writing to the city clerk at least ten (10) days prior to the
140 adoption of the Resolution of Removal pursuant to paragraph (3).
141 Subsequent to the approval of the Resolution of Removal, the
142 commission may consider this second resolution for the purpose of
143 avoidance of severance pay. The commission will determine if there is
144 sufficient and competent evidence for a reasonable person to find Cause
145 for Termination, as defined in the Employment Agreement, and state the
146 findings of fact supporting that determination. The Resolution
147 Determining Termination for Cause is not required but, if considered,
148 must be considered as a separate item at the same meeting at which the
149 Resolution of Removal is approved. The commission may approve a
150 Resolution Determining Termination for Cause only by an affirmative vote
151 of four (4) commissioners.

152
153 **SECTION 3.** If approved, Article VI "City Commission," Division 3 "City Manager," Section
154 6.03 "Appointment, qualifications and compensation," of the Charter shall be amended as follows:

155 **Sec. 6.03: - Appointment, qualifications and compensation.**

156 The city commission shall, by majority vote of the full commission, appoint a city
157 manager who shall be the administrative head of the municipal government
158 under the direction and supervision of the city commission. The city manager
159 shall receive such compensation as the city commission may fix and determine.

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The city commission and the city manager shall enter into a written employment agreement setting the initial compensation and other terms of employment. The city manager shall be chosen solely on the basis of executive and administrative qualifications, without regard to political belief and shall be over the age of twenty-one (21) years.

SECTION 4. If approved, Article VI "City Commission," Division 3 "City Manager," Section 6.04 "Removal" of the Charter shall be replaced in its entirety with the following:

Sec. 6.04: - Removal.

The commission may remove the city manager in accordance with the following procedures:

(1) *Motion for Removal.* The city manager serves at the will of the commission and may be removed with or without cause. To initiate removal of the city manager, a majority of the full commission must approve a motion to remove the city manager. If the Motion is approved, the Commission shall appoint, in a manner of their choosing, outside legal counsel to represent the commission for the removal proceedings.

(2) *Resolution of Proposed Removal.* Within (15) days of the motion for removal, the commission shall adopt by affirmative vote of a majority of all its members a resolution which must state the reasons for proposed removal and may thereupon suspend the city manager from duty for a period not to exceed forty-five (45) days. The reasons stated therein need not constitute "cause" pursuant to paragraph (5) below, but shall plainly state the basis for removal. A copy of the resolution shall be delivered promptly to the city manager.

(3) Within five (5) days after a copy of the resolution is delivered to the city manager, he or she may file with the commission a written request for a public hearing. This hearing shall be held at a commission meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The city manager may file with the commission a written reply not later than five (5) days before the hearing.

(4) *Resolution of Removal.* The commission may adopt a resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the suspension resolution was delivered to the city manager if he or she has not requested a public hearing, or at any time after affording the city manager an opportunity to publicly address the stated basis or reasons for removal the public hearing if he or she has requested a public hearing. The city manager shall continue to receive his or her salary until the effective date of a resolution of removal.

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(5) Resolution Determining Termination for Cause. If Removal for Cause is desired, the factual basis for a finding pursuant to this paragraph must be provided in writing to the city manager at least ten (10) days prior to the adoption of the Resolution of Removal pursuant to paragraph (4). Subsequent to the approval of the Resolution of Removal, the commission may consider this second resolution for the purpose of avoidance of severance pay. The commission will determine if there is sufficient and competent evidence for a reasonable person to find Cause for Termination, as defined in the Employment Agreement, and state the findings of fact supporting that determination. The Resolution Determining Termination for Cause is not required but, if considered, must be considered as a separate item at the same meeting at which the Resolution of Removal is approved. The commission may approve a Resolution Determining Termination for Cause only by an affirmative vote of four (4) commissioners.

SECTION 5. The Ballot Title shall be as follows:

REMOVAL PROCESS FOR CHARTER OFFICERS
REPORTING TO COMMISSION

SECTION 6. At the General Municipal Election on November 8, 2022, the following question shall be placed on the ballot for consideration by the qualified electors of the City of Hallandale Beach, Florida, and shall read as follows:

Shall the Hallandale Beach Charter be amended to direct a consistent process for removal of all charter officers that report to the city commission?

This proposed Charter amendment will have no financial impact on the City.

Yes ☐ No ☐

SECTION 7. Advertisement. The City Clerk is hereby authorized and directed to advertise the referendum election contemplated herein all in accordance with the Code of Ordinances and the State of Florida Election Code.

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SECTION 8. Conflict. All ordinances or portions of the Code of Ordinances of the City of Hallandale Beach in conflict with the provisions of this ordinance shall be repealed to the extent of such conflict.

SECTION 9. Severability. Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 10. Effective Date. The provisions of this ordinance shall become effective immediately upon adoption. The amendment contemplated herein shall become effective, if approved, upon certification of the vote in accordance with Florida Law.

PASSED on 1st Reading on _____, 2022.

ADOPTED on 2nd Reading on _____, 2022.

JOY F. COOPER
MAYOR

SPONSORED BY: CITY COMMISSION

ATTEST:

JENORGEN GUILLEN
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
FORM

JENNIFER MERINO
CITY ATTORNEY

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