

ORDINANCE NO. 9728-23

AN ORDINANCE PROPOSING AN AMENDMENT TO THE CITY CHARTER, CHANGING THE DATE OF CLEARWATER'S MUNICIPAL ELECTION, BEGINNING IN 2026, TO COINCIDE WITH STATE AND FEDERAL PRIMARY ELECTIONS, CREATING A RUN-OFF ELECTION FOR EACH SEAT IN WHICH NO CANDIDATE RECEIVES MORE THAN FIFTY PERCENT OF THE VOTE IN THE MUNICIPAL ELECTION, AND MODIFYING THE DATES FOR CANDIDATE QUALIFICATION, COMMENCEMENT AND EXPIRATION OF OFFICE, AND OTHER TIME PERIODS AS NECESSARY.

WHEREAS, Article VIII, § 2(b) of the Florida Constitution requires that all municipal officers be elected by the people; and

WHEREAS, Clearwater's City Charter uses a plurality system, in which the candidate receiving the greatest number of votes is elected; and

WHEREAS, this system can create outcomes in which a candidate supported by far less than fifty percent of Clearwater voters is nevertheless elected to office; and

WHEREAS, the Clearwater City Council finds that credibility and trust in the democratic process is enhanced by a system in which each elected official enjoys the support of a majority of voters who participate in the election process; and

WHEREAS, the City of Clearwater is the most populous city in the Gulf Coast region that allows a candidate to take office without receiving a majority of the votes cast in any election; and

WHEREAS, Florida Statute § 101.019, enacted by the Florida Legislature in 2022, prohibits local government from using ranked choice voting as a method by which a majority winner can be identified; and

WHEREAS, the Pinellas County Supervisor of Elections has advised the City of Clearwater that her office is able and willing to support any required run-off elections, if the City aligns its election schedule with state and federal elections; and

WHEREAS, the Clearwater City Council expects to increase voter participation and reduce costs for the City by aligning its election schedule with state and federal elections; and

WHEREAS, the creation of a run-off system as proposed in this ordinance will not take effect unless Clearwater voters approve the proposed charter amendments at a referendum; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
CLEARWATER, FLORIDA:

Section 1. The foregoing prefatory clauses are hereby fully incorporated herein as findings of the City Council.

Section 2. In furtherance of creating a run-off system and changing the dates of Clearwater elections, as described in Section 8 of this ordinance, it is hereby proposed that Section 2.03 of the City Charter be amended as follows:

Section 2.03. - Election and terms.

Commencing with the terms beginning in 2008, all council members, including the mayor, shall be elected for terms of four years. Terms shall overlap, with two council members and the mayor elected one year, and the additional two council members elected two years later.

No person who has, or but for resignation or forfeiture of office would have, served as a council member for two consecutive full terms shall serve as a council member other than mayor for the succeeding four-year term. No person who has, but for resignation or forfeiture of office would have, served as mayor for two consecutive full terms, shall serve as mayor or council member for the succeeding four-year term. Term limits shall be effective for each respective seat on the date of the next election for that seat after 1994.

Notwithstanding any other provision in the City Charter-, any councilmember, including the mayor, elected or reelected to seats 1, 2, or 3 during the March 2024 election shall take office the next business day following certification of city election returns. Each of these councilmembers shall serve in office until the third Tuesday in November of 2028. This paragraph is intended to ensure an orderly transition by preventing three vacancies in office that would otherwise persist between March of 2028 and the third Tuesday in November of 2028.

In addition, the council members serving in seats 4 and 5 as of March 19, 2024, shall have their current terms in office extended from their anticipated expiration in March of 2026 until the third Tuesday in November of 2026. This paragraph is intended to ensure an orderly transition by preventing two vacancies in office that would otherwise persist between March of 2026 and the third Tuesday in November of 2026.

Beginning in 2026 and any time thereafter, ~~Newly elected or reelected council members, including the mayor, shall take office the next business day following certification of city election returns~~ third Tuesday in November, at which time their four-year term shall commence.

Section 3. In furtherance of creating a run-off system and changing the dates of Clearwater elections, as described in Section 8 of this ordinance, it is hereby

proposed that Section 2.07 of the City Charter be amended as follows:

Section 2.07. - Vacancies; forfeiture of office; filling vacancies; advisory boards.

(c) Filling of vacancies; vacancy in council member's seat.

1. A vacancy on the council should be filled by majority vote of the remaining council members within 30 days after the vacancy. The person so appointed shall serve as a council member ~~until the next regular or special election. At such election, a council member shall be elected to serve for the remainder of the unexpired term of office.~~

2. If the council member fails to fill such vacancy within 60 days after it occurs, a special election shall be called to fill the unexpired term. A special election shall not be necessary if an election for that council member's seat is already scheduled to occur within 60 days of the vacancy.

3. Any person appointed to fill such a vacancy shall possess all the qualifications required of a council member by law.

Section 4. In furtherance of creating a run-off system and changing the dates of Clearwater elections, as described in Section 8 of this ordinance, it is hereby proposed that Section 8.05 of the City Charter be amended as follows:

Section 8.05 – Elections.

(a) Council positions. All members of the city council shall be elected at large. The candidate receiving the majority largest number of votes cast among the candidates for that seat in the Regular City Election shall be elected.

(b) Regular City eElections. Commencing in the year 2026, Regular eCity eElections shall be held in August of even-numbered years, in conjunction with the primary election described in Florida Statute 100.061 on the second Tuesday in March of each year in which a council term expires, or its successor statute.

(c) Special elections. Special municipal elections may be called by the council at any time for such purposes as are authorized by law.

(d) The Pinellas County Canvassing Board shall serve as the City of Clearwater's canvassing board, unless otherwise provided by ordinance.

(e) Run-off Municipal Elections. Commencing in the year 2026, for each seat in which no candidate receives a majority of votes cast for that seat in the Regular City

Election, then the two candidates for that seat who received the highest number of votes in the Regular City Election shall run against each other in a Run-off Municipal Election. Any Run-off Municipal Election, if required, shall be held in November of even-numbered years, in conjunction with the state and federal general election described in Florida Statute 100.031 or its successor statute. Following the Run-off Municipal Election, the candidate receiving the majority of the votes cast for that seat in the Run-off Municipal Election shall be elected.

- (f) Any candidate for city council elected in either a Regular City Election or the Run-off Municipal Election shall commence their term in office on the day or date described in Section 2.03 of the City Charter.

Section 5. In furtherance of creating a run-off system and changing the dates of Clearwater elections, as described in Section 8 of this ordinance, it is hereby proposed that Section 14.02 of Code of Ordinances be amended as follows:

Section 14.02. – Regular elections.

(a) Regular municipal elections shall be known as Regular City Elections. Regular City Elections shall be held in August of even-numbered years, as described in Section 8.05 of the City Charter. Regular municipal elections shall be held on the second Tuesday in March of each year in which the term of any councilmember expires, except that every four years commencing January 29, 2008, regular municipal elections shall be held in conjunction with the presidential preference primary.

(b) Early voting shall be authorized for both Regular City Elections and Run-off Municipal Elections to the maximum extent allowed by the Florida Election Code and the Pinellas County Supervisor of Elections. in municipal elections begins 15 days before the election. The City of Clearwater exercises its right to exempt itself from the provisions of Section 101.657, Florida Statutes, and shall contract with the supervisor of elections to provide facilities and services for early voting. Voters who wish to participate in early voting may do so at the offices of the Supervisor of Elections of Pinellas County.

Section 6. In furtherance of creating a run-off system and changing the dates of Clearwater elections, as described in Section 8 of this ordinance, it is hereby proposed that Section 14.03 of Code of Ordinances be amended as follows:

Sec. 14.03. - Method and manner of election.

(1) Seats on the city council shall be numbered, and the candidate receiving the majority largest number of votes among the candidates for that seat shall be elected in the Regular City Election. For each seat in which no candidate received a majority, a Run-off Municipal Election shall be held as described in Section 8.05 of the City Charter.

(2) The mayor seat shall be number 1, the seats for the terms which expired in 1986 shall be numbers 4 and 5, and the seats for the terms which expired in 1987 shall be numbers 2 and 3.

(3) Except to the extent provided in Section 2.03 of the City Charter, The the election for seats 4 and 5 shall be held in 2010 and every fourth year thereafter, and the election for seats 1, 2, and 3 shall be held in 2012 and every fourth year thereafter.

(4) Vacancies occurring on the city council between regularly scheduled elections shall be filled in accordance with the City Charter.

Section 7. In furtherance of creating a run-off system and changing the dates of Clearwater elections, as described in Section 8 of this ordinance, it is hereby proposed that Section 14.41 of Code of Ordinances be amended as follows:

Sec. 14.41. - Qualification for candidacy.

(7) Candidates may file qualifying papers with the city clerk during regular business hours at the city hall during the qualifying period, which begins at 8:00 a.m. on the first Monday in May of even-numbered years, and ends at 5:00pm on the second Friday thereafter. ~~Monday in December and ends at 5:00 p.m. on the second Friday thereafter. However, in years when the municipal election is moved to coincide with the presidential preference primary, the *qualifying* period will begin at 8:00 a.m. on the first Friday in November and end at 5:00 p.m. on the third Friday in November.~~ Any candidate may withdraw from nomination, but no fee will be refunded.

Section 8. A special City election is hereby called and will be held on March 19, 2024, for the consideration by the voters of the City of Clearwater of the proposed Charter Amendment. The question to appear on the referendum ballot shall be as follows:

Creating an election run-off system and changing
Clearwater's election dates to make that system possible

Shall the City of Clearwater charter be amended to require a run-off election, beginning in the year 2026, for each Council seat in which no candidate receives more than 50% of the vote in the regular city election? As described in City Ordinance 9728-23, this amendment will also change Clearwater's regular election from March of even-numbered years to August of even-numbered years. The run-off elections, when necessary, will be held in November of even-numbered years.

Yes _____

No _____

Section 4. The City Clerk is directed to notify the Pinellas County Supervisor of Elections that the referendum item provided above shall be considered at the regular election to be held on March 19, 2024.

Section 5. This ordinance and the amendments to the City Charter provided for herein shall take effect only upon approval of a majority of the City electors voting in the March 2024 referendum election on these issues and upon the filing of the Amended Charter with the Secretary of State.

PASSED ON FIRST READING

October 18, 2023

PASSED ON SECOND AND FINAL
READING AND ADOPTED

November 2, 2023

DocuSigned by:

Brian Aungst

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Brian J. Aungst, Sr.
Mayor

Approved as to form:

DocuSigned by:

David Margolis

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David Margolis
City Attorney

Attest:

DocuSigned by:

Rosemarie Call

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Rosemarie Call
City Clerk

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