

ORDINANCE NO. 1459

AN ORDINANCE OF THE CITY OF TEMPLE TERRACE, FLORIDA, CALLING FOR A REFERENDUM BALLOT ELECTION TO BE HELD ON NOVEMBER 6, 2018 FOR THE PURPOSE OF VARIOUS AMENDMENTS TO THE CHARTER OF THE CITY OF TEMPLE TERRACE; PROVIDING DIRECTION TO THE CITY CLERK TO COORDINATE THE REFERENDUM ELECTION AS REQUIRED BY FLORIDA LAW; PROVIDING THAT THE CHARTER SHALL BE AMENDED TO INCORPORATE ANY PROPOSED AMENDMENT RECEIVING A MAJORITY VOTE OF THE ELECTORS OF THE CITY IN FAVOR OF SUCH AMENDMENT; PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE FOR THE ORDINANCE AND THE PROPOSED CHARTER AMENDMENTS.

WHEREAS, Florida Statutes Chapter 166.031 provides, among other provisions, that the governing body may, by ordinance, submit to the electors of said municipality proposed amendments to its Charter, which amendment may be to any part or to all of said Charter, placing said proposed amendments contained in the ordinance to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose; and

WHEREAS, the City Council of the City of Temple Terrace has found it appropriate to appoint an ad hoc Charter Review Committee ("CRC") for purposes of determining whether the City of Temple Terrace Charter, which Charter was proposed by Ordinance No. 363, adopted May 5, 1978, and ratified and approved by the electors at the election of June 6, 1978, as amended, might be revised for the benefit of the citizens of the City of Temple Terrace; and

WHEREAS, on August 15, 2017 (Resolution 97-17(m)) and September 5, 2017 (Resolution 105-17(m)) the CRC, comprised of Carl Avari-Cooper, James Chambers, Gil Schisler, Robert Fernandez, and Joe Affronti, was appointed by the City Council for the purpose of reviewing the Revised Charter of the City of Temple Terrace and making recommendations for revisions; and

WHEREAS, the CRC met on numerous publicized occasions to review the current Charter and fulfilled its duties, and work sessions were held on February 20, 2018 and April 17, 2018 wherein the CRC presented its recommendations to the City Council; and

WHEREAS, having considered the proposals made by the CRC and having discussed the proposed changes at its public meeting on March 20, 2018 and on June 19, 2018, the Temple Terrace City Council has concluded that it is in the best interest of the citizens of the City of Temple Terrace for the City Council to propose revisions to the existing Charter at a referendum election to be held on November 6, 2018 in accordance with the provisions of Section 166.031, Florida Statutes and in the form set forth therein; and

WHEREAS, after due consideration, the Mayor and City Council of the City of Temple Terrace, Florida have determined that it is in the best interest of the City of Temple Terrace to amend Article II, Legislative, Sections 2.01, 2.02, 2.04, 2.08, 2.09; Article III, Mayor, Sections 3.02 and 3.03; and Article VII, Miscellaneous, creating a section 7.17 - Scrivener's Errors, Obsolete or Illegal Language,

Renumbering, of said revised Charter, in a manner consistent with the recommendations of the Charter Review Committee, as reviewed by the City Attorney and presented to the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA:

Section 1. Recitals. The above recitals and “Whereas” clauses are hereby included herein as findings by the Temple Terrace City Council and made a part of this Ordinance.

Section 2. The revisions to the Charter for the City of Temple Terrace, Florida, which are appended and attached as Exhibit “A” to this Ordinance are hereby adopted by reference by the City Council to be placed on the ballot and submitted to the electors of the City of Temple Terrace on November 6, 2018.

Section 3. The proposed revisions to the Charter are contained in and explained in three proposed ballot questions. The ballot title and ballot summary for each are set forth in Exhibit “A”.

Section 4. The City Clerk is directed to coordinate all matters relating to the referendum election with the Hillsborough County Supervisor of Elections and the City Attorney as needed, and complying with statutory advertising and notice requirements contained in Section 100.342, Florida Statutes.

Section 5. If any amendment to the Charter of the City of Temple Terrace is approved by the electorate in the referendum election called for this Ordinance, it is the intention of the City Council, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Charter of the City of Temple Terrace; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or such other appropriate word as the case may demand. The City’s Code codifier is granted broad and liberal power and authority to codify the Charter of the City of Temple Terrace in terms of making appropriate harmonizing, technical, or editorial changes and notes that do not affect the substantive provisions thereof.

Section 6. Any ordinances or existing Charter provisions in conflict with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict to the extent allowed by Florida law.

Section 7. Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion thereof, other than the part so declared to be invalid.

Section 8. This Ordinance shall be posted and published as provided by law, and except for this Section 8, which shall become effective immediately upon this Ordinance becoming law, the amendments to the Revised Charter of and for the City of Temple Terrace, Florida, shall become effective and operative only upon approval of a majority vote of the electors of the City of Temple Terrace voting on the question of the approval or disapproval of each amendment in a referendum to be held in conjunction with the regular municipal election on Tuesday, November 6, 2018. The Charter shall then be amended accordingly and become effective as of the date the results of the election are certified.

Renumbering, of said revised Charter, in a manner consistent with the recommendations of the Charter Review Committee, as reviewed by the City Attorney and presented to the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE TERRACE, FLORIDA:

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Section 6. Any ordinances or existing Charter provisions in conflict with any of the provisions of this Ordinance are hereby repealed to the extent of such conflict to the extent allowed by Florida law.

Section 7. Should any section, paragraph, sentence, clause, phrase or other part of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any portion thereof, other than the part so declared to be invalid.

Section 8. This Ordinance shall be posted and published as provided by law, and except for this Section 8, which shall become effective immediately upon this Ordinance becoming law, the amendments to the Revised Charter of and for the City of Temple Terrace, Florida, shall become effective and operative only upon approval of a majority vote of the electors of the City of Temple Terrace voting on the question of the approval or disapproval of each amendment in a referendum to be held in conjunction with the regular municipal election on Tuesday, November 6, 2018. The Charter shall then be amended accordingly and become effective as of the date the results of the election are certified.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE
TERRACE, FLORIDA, THIS 17th DAY OF JULY, 2018.

APPROVED BY THE MAYOR THIS 17th DAY OF JULY, 2018.

(CORPORATE SEAL)



MEL JURADO, MAYOR

ATTEST:



CHERYL A. MOONEY
CITY CLERK

Approved as to form and content:



PAM CICHON
CITY ATTORNEY

EXHIBIT A

QUESTION #1

Ballot Proposal: The ballot title and ballot summary for Question #1 are as follows:

CHANGE COMPOSITION OF CITY COUNCIL; ESTABLISH QUALIFICATIONS FOR OFFICE;
CHANGE POWERS OF MAYOR

Shall composition of City Council be changed to an elected mayor and four council members, all of whom have power to vote on matters before Council and must be registered electors of Hillsborough County at time of qualifying and domiciled in Temple Terrace for one year immediately prior to election date? Three members will constitute a quorum; Mayor will not have power to veto ordinances, but ordinances must be signed by Mayor before become law.

O YES for Approval
O NO against Approval

Text Revisions: Upon approval of this question at referendum, Sections 2.01, 2.08, 2.09, and 3.03 of the revised Charter of the City of Temple Terrace will be amended to read as follows:

Sec. 2.01. - Qualifications.

The City Council shall be ~~composed of five members~~ comprised of an elected Mayor and four Council Members, elected from the City at large and who shall be registered electors of Hillsborough County at the time of their qualifying. For ~~two (2) years~~ one (1) year immediately prior to the date of the election, members of Council shall have been residents of, and domiciled in, the City or the areas annexed to the City, or a combination thereof, and shall remain residents of the City during their tenure of office. The compensation of members of Council shall be fixed by ordinance.

The Council Members shall adopt such by-laws, regulations and rules of procedure, for their own guidance and government, as they may deem expedient.

Sec. 2.08. - Action.

The Council shall act by ordinance, resolution or motion. ~~Four (4)~~ Three (3) members shall constitute a quorum, ~~except during an emergency session, then three (3) Council Members shall constitute a quorum.~~ An ordinance, resolution or motion shall be enacted upon the affirmative vote of three (3) Council Members; provided, however, upon a finding and declaration of emergency by Council, an emergency ordinance shall be enacted upon the affirmative vote of ~~four (4)~~ three (3) Council Members. Upon passage of any ordinance, the vote of each Council Member shall be entered upon the minutes. ~~Except in an emergency session, the Mayor may be counted to establish a quorum, but the Mayor shall have no vote unless otherwise provided by this Charter.~~

~~Sec. 2.09. - Veto.~~

~~Before going into effect, all ordinances passed by the Council shall be submitted to the Mayor or, in his absence, to the Vice Mayor. If approved, the Mayor shall sign the ordinance, whereupon it shall become law. If disapproved, the Mayor shall return it to the City Council with written objections. At the next regular Council meeting, the objections shall be entered in full upon the record and the Council shall consider the Mayor's objections. If, upon consideration, the City Council shall pass the ordinance by affirmative vote of~~

~~four (4) Council Members, the ordinance or ordinances shall then become law, the Mayor's objections to the contrary notwithstanding. Any ordinance which shall not be returned to the Council at the next regular meeting of the Council after its passage shall become a law as if signed by the Mayor.~~

Sec. 2.09. – Adoption.

Before going into effect, all ordinances passed by the Council shall be submitted to the Mayor, or in his/her absence, to the Vice-Mayor, who shall sign the ordinances, whereupon it shall become law.

Sec. 3.03. - Duties and Powers.

~~The Mayor shall preside at meetings of the City Council; he or she shall be recognized as head of City government for ceremonial purposes, and by the Governor for purposes of martial law; however, he shall have no regularly assigned duties. Except to break any tie vote by the City Council, the Mayor shall have no vote. A Vice-Mayor, who shall act as Mayor and assume those duties during the Mayor's absence or disability, shall be elected by the City Council in a manner determined in the City Council Rules of Order and Procedure. The Vice Mayor shall be counted in the determination of a quorum of Council Members and shall discharge the duties of a Council Member, including voting. The Mayor shall be counted for determining a quorum, have a voice and a vote in the proceedings of the City Council, but shall have no veto power. He or she may use the title of Mayor in any case which the execution of written legal instruments or other necessity arise when the general laws of the state so require.~~

QUESTION #2

Ballot Proposal: The ballot title and ballot summary for Question #2 are as follows:

ESTABLISH DATE WHEN OFFICIALS TAKE OFFICE; CLARIFY TERM LIMITS; CORRECT
PROCEDURE TO FILL INTERIM VACANCY

Shall newly elected Council members and Mayor be sworn in and take office on the second regularly scheduled council meeting after certification of election results; and shall Mayor and Council members, upon serving two consecutive terms, not be permitted to hold their same office again for two years; and shall interim vacancies be filled by Council during a properly noticed council meeting using written, but no longer “secret,” ballots?

☐ YES for Approval

☐ NO against Approval

Text Revisions: Upon approval of this question at referendum, Sections 2.02, 2.04, and 3.02 of the revised Charter of the City of Temple Terrace will be amended to read as follows

Sec. 2.02. - Elections.

The regular election of the City Council shall be held on the first Tuesday after the first Monday in November of every even-numbered year. The candidates for City Council receiving the highest number of votes shall be elected to fill the existing vacancies for four-year terms. Newly elected members of City Council shall be sworn in and take office on the second regularly scheduled City Council meeting after certification of election results.

Council Members shall serve no more than two (2) consecutive four (4) year terms and may not hold Council office again for a period of two (2) years and shall not seek reelection for a period of two years.

Sec. 2.04. - Interim vacancies.

~~The~~ An office of City Council shall become vacant upon the death, resignation, or removal from office of any member of City Council in any manner authorized by law. Within thirty (30) days after any vacancy in City Council, the Mayor shall appoint a five-member citizen committee. The citizen committee shall be comprised of registered electors, each of whom must be qualified to hold the office of City Council. Within thirty (30) days of such appointment, the citizen committee shall present a slate of two (2) candidates to City Council. At the next ~~scheduled~~ properly noticed regular meeting of the City Council, the members of the City Council shall consider and select, by using written secret ballots, one of the two candidates presented to it. The candidate shall be selected by majority vote of the City Council, and shall fill the vacancy for a period of one hundred eighty (180) days, or until the next scheduled election for ~~City Council~~ the vacant office, whichever occurs first, to complete the unexpired term. If no election for City Council is scheduled to be held within one hundred eighty (180) days, then a special election will be held to fill the vacancy and complete the unexpired term.

Time spent serving in an interim capacity shall not be considered with respect to the term limitation set forth in Section 2.02 of this Charter if the Council Member selected by the procedure set forth in this Section decides to run for the office; that Council Member will be eligible to serve two consecutive four-year terms, if elected.

If a member of City Council resigns from his/her office to run for another office, the resignation shall be effective in accordance with the Florida Statutes.

Sec. 3.02. - Election.

The regular election for Mayor shall be held on the first Tuesday after the first Monday in November of every other even-numbered year. The candidate for Mayor receiving the highest number of votes cast for Mayor shall be elected and shall hold office for a four (4) year term or until a successor is duly elected and the election is certified. The Mayor shall serve no more than two (2) consecutive four (4) year terms and may not hold mayoral office again for a period of two (2) years. The newly elected Mayor shall be sworn in and take office on the second regularly scheduled City Council meeting after certification of election results.

A run-off election, if necessary, shall be held twenty-eight (28) days following the original election date.

QUESTION #3

Ballot Proposal: The ballot title and ballot summary for Question #3 are as follows:

GRANTING AUTHORITY TO MAKE CLERICAL CHANGES AND DELETE ILLEGAL PROVISIONS IN THE CHARTER BY RESOLUTION

Shall City Council be authorized to pass a resolution making clerical changes to the Charter to renumber sections, insert statutory references, and correct typographic/grammatical errors, language that has become obsolete, inappropriate, does not conform to commonly accepted usage, or conflicts with Florida law? This amendment applies only to minor corrections that will not alter the meaning of the Charter. It will not apply to policy or substantive changes except those void under Florida law.

- ☐ YES for Approval
- ☐ NO against Approval

Text Revision: Upon approval of this question at referendum, the revised Charter of the City of Temple Terrace will amended to include a new section 7.17 to read as follows:

Sec. 7.17 – Scrivener’s Errors, Obsolete or Illegal Language, Renumbering.

The City Council shall be authorized to make by resolution any necessary renumbering of sections herein or clerical changes to the Charter to correct language that is grammatically incorrect, misspelled, has become obsolete, inappropriate, or does not conform to commonly accepted usage, or has been deemed illegal under Florida law. This does not authorize substantive changes that would alter the meaning of the Charter, but does permit insertion of statutory references for clarification.

Examples of Corrections recommended by the Charter Review Commission that would be made upon approval of this question:

Sec. 2.04 – ~~The~~ An office of City Council shall become vacant upon the death, resignation, or removal from office of any member of City Council in any manner authorized by law.

Sec. 4.02. - Appointment.

The City Manager shall be chosen by the Council, solely on the basis of executive and administrative qualifications, with special reference to actual experience or knowledge of the duties of the office of City Manager. At the time of appointment, the City Manager need not be a resident of the City or state, but within six (6) months after becoming City Manager, he or she shall become a resident of the City, unless otherwise provided by ordinance.

Sec. 7.01. - Elections.

All elections shall be conducted as provided by law and in accordance with Chapter 7 2, Temple Terrace Code of Ordinances.

Sec. 7.04. - Facsimile or electronic signatures.

Except with regard to the passage of ordinances, the City Council may authorize the use of facsimile or electronic signatures by such persons and under such conditions as may be prescribed by ordinances.