



City of North Port

ORDINANCE NO. 2019-05

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, CALLING FOR A REFERENDUM QUESTION TO BE PLACED BEFORE THE QUALIFIED ELECTORS OF THE CITY OF NORTH PORT, FLORIDA AT THE NOVEMBER 3, 2020 GENERAL ELECTION; PROVIDING A CHARTER REFERENDUM QUESTION DETERMINING WHETHER TO AMEND THE CITY CHARTER TO REMOVE THE DESIGNATION OF THE DEPUTY CITY CLERK AS A CHARTER OFFICER; PROVIDING FOR THE FULL TEXT OF THE PROPOSED CHARTER AMENDMENT; PROVIDING FINDINGS; PROVIDING FOR AN EFFECTIVE DATE IF THE PROPOSED CHARTER AMENDMENT IS APPROVED; PROVIDING FOR THE FILING OF THE ORDINANCE WITH THE SARASOTA COUNTY SUPERVISOR OF ELECTIONS; PROVIDING FOR PUBLICATION OF THE TEXT OF THE PROPOSED CHARTER AMENDMENT; PROVIDING FOR FILING WITH THE FLORIDA DEPARTMENT OF STATE IF THE PROPOSED CHARTER AMENDMENT IS APPROVED; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.031, Florida Statutes and Section 8.02(a) of the City Charter of the City of North Port, Florida ("City Charter") provide that the commission may by ordinance submit to the electors proposed amendments to the City's charter. Proposed amendments shall be placed to a vote of the electors at the next general election or special election called for that purpose; and

WHEREAS, the Charter Review Advisory Board conducted a publicly-noticed meeting on October 30, 2019 to review this proposed change to the City Charter, and the City Commission considered the advisory board's input at first reading of this ordinance; and

WHEREAS, the City Commission finds that the City Charter should be amended to remove the designation of the Deputy City Clerk position as a charter officer of the City of North Port; and

WHEREAS, Section 5.05(c) of the City Charter provides that the Deputy City Clerk position shall not be abolished as a charter officer, except by referendum; and

WHEREAS, the Sarasota County Supervisor of Elections advises that the next general election will occur on November 3, 2020. In order to obtain placement on the ballot for the general election, the Supervisor of Election has established a deadline of August 14, 2020 for the submission of referendum questions; and

WHEREAS, this ordinance has been adopted by a vote of at least three (3) members of the City Commission; and

WHEREAS, the City Commission authorizes that the one (1) referendum question more particularly described herein be placed on the November 3, 2020 ballot for consideration by the City's electors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

- 1.01 The recitals outlined above are ratified and approved as true and correct, and are incorporated by reference as findings of fact as if expressly set forth herein.

SECTION 2 – PROPOSED CHARTER AMENDMENTS

- 2.01 Article V, Section 5.05 of the City Charter of the City of North Port, Florida, relating to organizational structure should be amended to read as follows:

“Sec. 5.05. - Organizational Structure

- (a) The City Commission shall, by ordinance adopted by unanimous vote, activate or deactivate departments as deemed necessary for the efficient administration and operation of City government. The following departments may not be deactivated except by referendum:
1. Police Department
 2. Department of Finance
- (b) The City Commission shall, by ordinance adopted by unanimous vote, create or dissolve special districts as deemed necessary for the efficient administration and operation of City government. The following districts may not be dissolved except by ordinance after conducting a referendum question:
1. Fire Rescue District
 2. Road and Drainage District
 3. Solid Waste District
- (c) The following Charter officer positions shall not be abolished except by referendum:
1. City Manager
 2. City Clerk
 3. ~~Deputy City Clerk~~
 4. City Attorney”

- 2.02 Article XI of the City Charter of the City of North Port, Florida should be repealed in its entirety.

~~“ARTICLE XI. DEPUTY CITY CLERK~~

~~Sec. 11.01. Appointment and qualifications.~~

- ~~(a) The City Commission shall appoint the Deputy City Clerk by majority vote. The Deputy City Clerk shall be appointed on the basis of executive and administrative qualifications without regard to political affiliations of the individual. It shall not be required for the Deputy City Clerk to be a resident of the City at the time of appointment; however, the Deputy City Clerk shall be required to establish residency in the City within one (1) year of the appointment date and must maintain residency in the City while in the position, except as provided in Subsection (b).~~
- ~~(b) If the Deputy City Clerk relocates out of the City but within Sarasota County due to a City declared emergency and loss of residence due to emergency circumstances, the Deputy City Clerk will be given six (6) months to re-establish City residency. If the Deputy City Clerk is unable to re-establish City residency after the initial six (6) month period due to good cause, the Deputy City Clerk may be granted a one time extension for an additional six (6) months by a majority vote of the City Commission. If the Deputy City Clerk is unable or unwilling to re-establish City residency by the deadline, the office of Deputy City Clerk will be declared vacant. At no time may the Deputy City Clerk relocate outside of Sarasota County without the office being declared vacant.~~

~~Sec. 11.02. Employment contract.~~

~~The City shall enter into a contract for employment with the Deputy City Clerk. The contract shall include the Deputy City Clerk's compensation as determined by the City Commission.~~

~~Sec. 11.03. Removal.~~

~~The Deputy City Clerk shall be removed from office for good cause by majority vote of the City Commission or by mutual consent of both parties.~~

~~Sec. 11.04. Vacancy.~~

- ~~(a) A vacancy shall be created upon the effective date of resignation, when the Deputy City Clerk fails to meet the residency requirement, dies, or is removed from office in any manner authorized by law.~~
- ~~(b) In the event of a vacancy of the office of Deputy City Clerk for any reason whatsoever, the City Commission shall designate and appoint a properly qualified person to execute the functions of the office until such time as a new Deputy City Clerk is forthwith appointed by majority vote of the City Commission.~~

~~Sec. 11.05. Powers and duties.~~

~~The Deputy City Clerk shall be responsible to the City Commission for the proper administration of all affairs concerning the records of the City placed in the Deputy City Clerk's charge under this Charter and as may be promulgated by ordinance or resolution. The Deputy City Clerk shall:~~

- ~~(a) Carry out the duties of the City Clerk in the City Clerk's absence.~~

~~(b) Make recommendations to the City Commission concerning the records and clerical functions of the City.~~

~~(c) Perform such other duties as may be prescribed by general law, by this Charter, by ordinance or resolution of the City, or by direction of the City Commission as a whole.~~

~~Sec. 11.06. City clerk vacancy.~~

~~When the City Clerk's office is vacant, the Deputy City Clerk shall carry out the duties of the City Clerk until such time as a new City Clerk is appointed."~~

2.03 Additions are shown as underlined and deletions as ~~striketrough~~. These editorial notations shall not appear in the codified text.

SECTION 3 – REFERENDUM ELECTION CALLED

3.01 A referendum election is hereby ordered and called to be held throughout the City of North Port, Florida on November 3, 2020. The referendum will be held in conjunction with the City of North Port's general election for the purpose of submitting to the City's electors a referendum question as to whether the current City Charter should be amended to remove the designation of the Deputy City Clerk as a charter officer. The referendum question is more particularly set forth below.

SECTION 4 – CONDUCT OF REFERENDUM ELECTION

4.01 The referendum election called by this ordinance shall be conducted in the manner prescribed in Chapters 100, 101, and 102, Florida Statutes.

4.02 The polling places, election officials, and hours of election for the general election shall be the same as those for the general election scheduled to be held within the City of North Port on November 3, 2020.

SECTION 5 – FORM OF BALLOT

5.01 The question pertaining to the adoption of the proposed amendment to the City Charter shall be submitted to the qualified electors of the City in substantially the following form, which shall be printed on the ballot:

**OFFICIAL BALLOT
CITY OF NORTH PORT, FLORIDA
NOVEMBER 3, 2020**

REFERENDUM QUESTION 1 - REMOVE DESIGNATION OF THE DEPUTY CITY CLERK AS A CHARTER OFFICER

The City Charter identifies four employees as charter officers: City Manager, City Attorney, City Clerk, and Deputy City Clerk. Charter officers are appointed by the City Commission, have employment contracts, and report directly to

the City Commission. Are you in favor of striking language in the City Charter to remove the designation of the Deputy City Clerk as a charter officer?

YES – Remove the Deputy City Clerk as a charter officer []

NO – Keep the Deputy City Clerk as a charter officer []

SECTION 6 – NOTICE OF ELECTION

- 6.01 The City Clerk shall make this ordinance available for inspection at the office of the City Clerk and available on the City’s website at www.cityofnorthport.com.
- 6.02 The City Clerk shall publish a notice of the referendum election in a newspaper of general circulation within the City of North Port at least thirty (30) days prior to the date of the election. The notice shall be published at least twice, once in the fifth week and once in the third week prior to the week in which the referendum election is to be held. Said notice shall be in substantially the following form:

NOTICE OF REFERENDUM ELECTION

Notice is hereby given that a referendum election will be held on November 3, 2020, in the City of North Port, Florida to consider the following question:

REFERENDUM QUESTION 1 - REMOVE DESIGNATION OF THE DEPUTY CITY CLERK AS A CHARTER OFFICER

The City Charter identifies four employees as charter officers: City Manager, City Attorney, City Clerk, and Deputy City Clerk. Charter officers are appointed by the City Commission, have employment contracts, and report directly to the City Commission. Are you in favor of striking language in the City Charter to remove the designation of the Deputy City Clerk as a charter officer?

YES – Remove the Deputy City Clerk as a charter officer []

NO – Keep the Deputy City Clerk as a charter officer []

The complete text of the proposed charter amendments is contained in City of North Port Ordinance No. 2019-05. Copies of the ordinance may be inspected and are available at the office of the City Clerk, North Port City Hall, 4970 City Hall Boulevard, North Port Florida and available on the City’s website at www.cityofnorthport.com.

The polls will be open at the voting places on the date of such referendum election from 7:00 a.m. to 7:00 p.m. All qualified electors of the City of North Port, Florida may vote in said election. Vote-by-mail and early voting will be permitted upon compliance with the applicable provisions of general law.

Heather Taylor, CMC
Interim City Clerk
City of North Port, Florida

SECTION 7 – SUPERVISOR OF ELECTIONS TO POST COPY OF ORDINANCE AT EACH POLLING PLACE

- 7.01 The Supervisor of Elections shall conspicuously post a copy of this ordinance at each polling place during the hours that the polls are open to consider this referendum.

SECTION 8 – EFFECTIVENESS OF REFERENDUM RESULTS

- 8.01 Returns of the votes cast at the referendum shall be made as required by law.
- 8.02 If a majority of the votes cast for the referendum question is “YES – Remove the Deputy City Clerk as a charter officer,” then the referendum question shall be approved and the proposed City Charter amendment shall become effective as of 12:01 a.m. on the day following certification of the referendum results.
- 8.03 If less than a majority of the votes cast for the referendum question is “YES – Remove the Deputy City Clerk as a charter officer,” then the referendum question shall be defeated, the adoption of the proposed City Charter amendment shall have failed and shall not be effective or operative, and the same shall be void and have no effect. The referendum question’s defeat shall result in all provisions from the current City Charter remaining in full force and effect.

SECTION 9 – FILING WITH THE SUPERVISOR OF ELECTIONS

- 9.01 Upon this ordinance becoming effective, the City Clerk is hereby directed to file a certified copy of this ordinance with the Supervisor of Elections for Sarasota County, Florida, and is hereby authorized to take all appropriate actions necessary to carry into effect and accomplish the electoral provisions of this ordinance.

SECTION 10 – FILING WITH THE FLORIDA DEPARTMENT OF STATE

- 10.01 If the City’s electors approve the referendum question and the proposed City Charter amendment provided for herein, the City Clerk is hereby directed to file the City Charter amendment with the Florida Department of State in accordance with Section 166.031(2), Florida Statutes.

SECTION 11 – CONFLICTS

- 11.01 In the event of any conflicts between the provisions of this ordinance and any other ordinance, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 12 - SEVERABILITY

- 12.01 If any section, subsection, sentence, clause, phase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 13 - EFFECTIVE DATE

13.01 This ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida. If the City's qualified electors approve the proposed City Charter amendment by referendum approval, the City Charter amendment shall become effective as specifically provided for in Section 8 above.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida in public session on the ____ day of _____ 2019.

PASSED AND ADOPTED by the City Commission of the City of North Port, Florida on second and final reading in public session this ____ day of _____ 2019.

CITY OF NORTH PORT, FLORIDA

CHRISTOPHER HANKS
MAYOR

ATTEST

HEATHER TAYLOR, CMC
INTERIM CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY