

ORDINANCE NO. 14-2023

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, SUBMITTING TO REFERENDUM AN AMENDMENT TO THE CITY CHARTER TO ALLOW COUNCIL MEMBERS TO RUN FOR THE POSITION OF MAYOR WITHOUT THE NEED FOR A ONE-YEAR HIATUS; PROVIDING FOR ADVERTISEMENT OF THE REFERENDUM, SUBMISSION OF THE QUESTION AND CHARTER AMENDMENT CONTAINED HEREIN TO THE QUALIFIED ELECTORS OF THE CITY OF DEBARY AT A GENERAL ELECTION WHERE SUCH AMENDMENT WILL BE INCORPORATED INTO THE CITY CHARTER IF APPROVED; PROVIDING FOR CODIFICATION OF ADOPTED CHARTER AMENDMENTS, SEVERABILITY, AND AN EFFECTIVE DATE OF THIS ORDINANCE AND CHARTER AMENDMENT, IF APPROVED.

WHEREAS, the City Council has been reviewing the term limit provisions in § 5.03 of the City of DeBary Charter;

WHEREAS, the City Charter establishes five (5) city council seats, designated as Council seat #1, Council seat #2, Council seat #3, Council seat #4, and Council seat #5 (the office of the Mayor);

WHEREAS, the City Council has noted that a council member whose term of office co-terminates with the term of office for the mayor is precluded from qualifying for the office of the mayor ~~during the council member's second term of office~~, because § 5.03 of the City Charter would require such a candidate to remain off the City Council for a period of one-year following his/her second term;

WHEREAS, a City Council member whose term of office on the council does not co-terminate with the term of office for the mayor is not subject to the consequences of the one-year hiatus rule to run for Mayor upon conclusion of that member's second term, because his/her last term of office would conclude one year before the Mayor's next term would commence;

WHEREAS, given the foregoing, a council member whose term of office does not co-terminate with the term of office for the mayor may qualify and run for the office of Mayor at his/her earliest convenience ~~following his/her second consecutive term of office~~ while a council member whose term of office co-terminates with the office of the mayor must wait another year before he/she is eligible to qualify and run for mayor;

WHEREAS, given the fact that the mayor is elected to a four (4) year term of office, the foregoing one-year hiatus rule means that a council member whose last consecutive term of office terminated at the same time as the term of office for the Mayor must actually wait four (4) years before he/she can be elected and serve as Mayor;

WHEREAS, after due consideration of the foregoing, the City Council has directed that this Ordinance be prepared and that the ballot question included herein be submitted for the consideration of the qualified electors of the City of DeBary, Florida, at the general election to be held on Tuesday, November 5, 2024;

WHEREAS, § 166.031, Florida Statutes, provides for the adoption of an ordinance submitting amendments to the City of DeBary Charter to the electors of the City for approval; and

WHEREAS, the City Council will have held two public hearings on this Ordinance prior to its adoption.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. **Recitals.** The foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

SECTION 2. **Amendment #1.** Section 5.03 of the Charter of the City of DeBary is hereby amended upon approval of the qualified electors of the City of DeBary to read as follows (~~stricken through~~ language are deletions; underlined language are additions; subsections not included are not being amended):

Sec. 5.03. - Terms of office.

- (a) The term of office for all Council seats is four (4) years for members elected in 2014 and thereafter. No member of the Council shall serve (or, but for resignation would have served) for more than two (2) consecutive full terms of office. A candidate who has been elected to two (2) consecutive full terms of office may requalify for any vacant seat provided said candidate does not actually take office for at least a one-year period after the end of that candidate's previous two (2) full terms of office, except as set forth in subsection (b). Members of the City Council elected shall hold their seats for the term of office for which they were respectively elected until such time as they are reelected, their successors have been elected and take office, or such office is otherwise prematurely vacated. An individual appointed to fill a vacant office shall be bound to the term of office served by such individual's predecessor.

(b) A candidate who is serving in a council seat, excepting seat #5 (the office of Mayor), and whose second consecutive term of office is scheduled to conclude at the same time as the term of office for seat #5, may qualify for seat #5 without complying with the requirement in subsection (a) that he/she remain off the city council for at least a one-year period following his/her second consecutive full term of office. Any such candidate, if elected to seat #5, will be eligible to serve two (2) consecutive full terms of office as Mayor.

SECTION 3. **Amendment #1 Ballot Question.** The ballot title and summary of the amendment referenced in Section 2 herein, followed by the words “yes” and “no” shall be set forth as follows on the ballot at the general election on November 5, 2024, for consideration by the qualified electors of the City of DeBary, Florida:

TITLE

TERM LIMIT EXCEPTION FOR COUNCIL MEMBERS RUNNING FOR THE OFFICE OF MAYOR

SUMMARY

Should the term limit requirements of Section 5.03 of the DeBary City Charter be amended to allow a city council member whose second consecutive term of office would conclude at the same time as the Mayor’s term of office to qualify and run for the office of Mayor without remaining off the city council for at least one year?

YES

NO

SECTION 4. **Referendum.** The City Council hereby authorizes a referendum election to be held on November 5, 2024, in conjunction with the general election held pursuant to § 100.031, Fla. Stat. and other applicable laws, at which the foregoing charter amendment and its accompanying ballot question contained herein will be submitted to the electorate of the City of DeBary, with the polls of such referendum closing on such date.

SECTION 5. **Advertisement.** The City Clerk of the City of DeBary is hereby authorized and directed to advertise the referendum election authorized herein in accordance with

the applicable provisions of the City Charter, City Code, Florida Statutes, Florida Administrative Code, and federal law.

SECTION 6. **Codification.** It is the intention of the City Council of the City of DeBary that the Charter Amendment proposed by this Ordinance will become and be made a part of the Charter of the City of DeBary, Florida if adopted by the qualified electors of the City of DeBary. Articles, sections, and subsections of the Charter may be renumbered or relettered for editorial and codification purposes and such renumbering and relettering will not constitute, nor be considered substantive changes, to the charter amendment as adopted. The City Clerk is hereby directed to ensure that appropriate numbers or letters are affixed to the Articles and Sections of the Charter if the Amendments contained herein, or any one or more of them, are approved at referendum.

SECTION 7. **Severability.** If any clause, section, or other part of this Ordinance is held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part will be considered eliminated and have no effect the validity of the other provisions of this Ordinance.

SECTION 8. **Effective Date of Ordinance.** This Ordinance will take effect immediately upon its adoption.

SECTION 9. **Effective Date of Proposed Charter Amendment.** The proposed Charter Amendment set forth herein will take effect if and upon certification of an affirmative majority vote of the qualified electors of the City of DeBary in favor of such at the November 5, 2024 general election.

FIRST READING AND PUBLIC HEARING: December 6, 2024. 2023

SECOND READING AND PUBLIC HEARING: January 3, 2024.



APPROVED:

CITY OF DEBARY CITY COUNCIL

Karen Chasz
Karen Chasz, Mayor

ATTEST:

Annette Hatch
Annette Hatch, City Clerk

s:\aka\clients\debary,city of\general d334-16191\charter amendment 2023\revised charter ordinance 11-9-2023.doc