

**CITY OF MARCO ISLAND
MARCO ISLAND, FLORIDA**

ORDINANCE 23-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING CERTAIN AMENDMENTS TO THE CITY CHARTER; PENDING THE RESULTS OF THE PRESIDENTIAL PRIMARY ELECTION TO BE HELD ON TUESDAY, MARCH 19, 2024; RELATED TO THE ESTABLISHMENT OF THE OFFICE OF MAYOR AND THE CITY CLERK TO BE APPOINTED BY AND REPORTING TO THE CITY COUNCIL; AMENDING CHAPTER 2 "ADMINISTRATION" OF THE MARCO ISLAND CODE OF ORDINANCES RELATED TO THE PROPOSED CHARTER AMENDMENTS; PROVIDING FOR SUBMISSION TO THE ELECTORS FOR APPROVAL OR DISAPPROVAL OF A RELATED SERIES OF PROPOSED CHARTER AMENDMENTS; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR INCLUSION IN THE CHARTER AND CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that certain amendments are needed to the City Charter (the "Charter Amendments") in order to establish an office of Mayor and have City Clerk report to the City Council; and

WHEREAS, pursuant to Section 166.031, Florida Statutes, the City Council is required to submit the Charter Amendments to the electors of the City for approval or rejection.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Marco Island, Florida that:

SECTION 1: The foregoing "WHEREAS" CLUASES are ratified and confirmed as being true and correct and are specifically incorporated herein.

SECTION 2: Pursuant to Section 166.031, Florida Statutes, the below sections of the City Charter of the City of Marco Island, Florida, are amended to read, as follows:¹

¹Proposed additions to existing Charter text are shown by underlining; proposed deletions from existing Charter text are shown by ~~strike through~~. Material that is prefaced as an "Editor's Note" constitutes editorial comments to the existing City Charter and are maintained for convenience of reference only.

ARTICLE I. CORPORATE EXISTENCE; FORM OF GOVERNMENT; POWERS

Section 1.02. Form of Government.

The City shall have a Council-Manager form of government. The seven (7) member Council shall consist of a Mayor and six (6) Council Members who shall be qualified voters of the City and shall be elected at large in the manner hereinafter provided.

ARTICLE III. LEGISLATIVE

Section 3.01. City Council.

All legislative authority shall be vested in a seven-member City Council elected from and representing the City at-large. The six separate Council Member seats shall be designated as seat one through seat six (individually each is a "Seat") The seven separate Council seats shall be designated as seat one through seat seven (individually each is a "Seat"). The Council shall consist of a Mayor and six (6) Council Members.

Section 3.02. Selection and Terms.

- (1) The term of office shall be four years and no Council Member, including Mayor, shall serve more than two full consecutive terms. No Council Member or Mayor (or former Council Member or Mayor) shall serve more than eight years in office during his/her lifetime, except those whose terms were extended by changes to the election date.
- (2) Beginning with the general municipal election to be held in 2024, a Mayor shall be elected from the qualified electors of the City for a period of four (4) years, or until his successor is duly elected at a general municipal election as provided herein.
- (3) At each election to be held under this Charter, three (3) Council Members shall be chosen. The three (3) candidates receiving the highest number of votes shall hold office for four (4) years or until their successors are duly elected at a general municipal election as provided herein.
- (2) (4) The Council Members terms shall be staggered such that beginning with the 2012 election, the election for Council Seats 1, 3, 5 and 7 shall be held on the first Tuesday following the first Monday in November 2012, and every four (4) years thereafter. The election for Council Seats 2, 4, and 6 shall be held on the first Tuesday following the first Monday in November 2014, and every four (4) years thereafter. 2024 election, the election for the Mayor and three (3) Council Member Seats shall be conducted during presidential election years and the other three (3) Council Member Seats during non-presidential election years.
- (5) Council Members in office when this Charter Amendment becomes effective shall continue in office until the expiration of their respective terms.

Section 3.03. Compensation.

The salary of each Council Member, except for the ~~Chairman~~ Mayor, shall be \$6,000.00 per year, payable in equal monthly installments. The salary of the ~~Chairman~~ Mayor shall be \$9,000.00 per year, payable in equal monthly installments.

Section 3.04. Presiding Officer, Mayor, Vice-Mayor.

- (1) The Mayor shall preside at the meetings of the Council and shall have a voice and vote in its proceedings. He/she will be the liaison officer between the City Council and the City Manager at all times except when the Council is in session. His/her instructions to the City Manager shall have the effect of a Council decision except where disapproved by the City Council in regular or special session.
- (2) He/she shall be recognized as head of the City government and by the Governor for purposes of military law.
- (3) The Council shall, at the first regular meeting after each general municipal election, elect one of its own members as Vice-Mayor. The Vice-Mayor shall, in the absence or incapacitation of the Mayor, have all of the powers and prerogatives and shall perform all of the duties of the Mayor. The Vice-Mayor shall hold office until the first regular meeting after the next general municipal election following his/her election by the Council.

Section 3.045. General Provisions.

- ~~(1) The Council shall elect a Chairman and Vice-Chairman to serve for a term of one year, at the first meeting following the Council election and the annual anniversary thereafter.~~
- ~~(2) The Chairman shall preside at meetings of the Council, shall have a voice and vote in its proceedings, and shall be recognized as head of City government for ceremonial purposes and for purposes of military law.~~
- ~~(3) The Vice-Chairman, in the absence of the Chairman, shall have all the power and prerogative to perform the duties of the Chairman.~~
- ~~(4) (1) No former Council Member, including the Mayor, shall hold any compensated City position until four years after the expiration of the term for which the Council Member, or Mayor was elected.~~
- ~~(5) (2) No Council Member, including the Mayor, shall direct or request, or participate in, the appointment or removal by the City Manager of any employee in the administrative service of the City, except for the City Attorney and City Clerk.~~
- ~~(6) (3) Except for the purpose of inquiry, the Council and its Members, including the Mayor, shall deal with the administrative service solely through the City Manager and neither the Council nor any Member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.~~
- ~~(7) (4) Notwithstanding the provisions of (36) above, upon the affirmative vote of five (5) or more Council Members, including the Mayor, the Council shall conduct investigations into the activities or the performance of any City department, agency, administration, City Manager, staff or employee. Investigations may be conducted by the Council as a whole or delegated by Council to any Council Member(s), or to another person(s) and/or entity. Council shall act on any such findings as it may determine to be in the best interest of the City.~~

Section 3.056. Vacancies.

- (1) The Seat held by a Council Member, including Mayor, shall become vacant upon resignation, death, removal from office as authorized by law, or by forfeiture of office.
- (2) A Council Member, including Mayor, shall forfeit the Seat held upon determination of the Council by a majority vote of the Council Members seated, that the Council Member, or Mayor:
 - (a) Ceases to maintain permanent residence in the City or otherwise ceases to be a qualified elector of the City,
 - (b) Is absent from six regular meetings of Council during any calendar year, or from any four consecutive regular meetings of Council, whether or not during the same calendar year, unless excused by a majority vote of the Council, or
 - (c) Is incapacitated and unable to fulfill the responsibility of the office.
- (3) Vacancy in the office of the Mayor shall be filled by a special election for the unexpired term to be called by the City Clerk upon a resolution adopted by the Council, and held within sixty (60) days of such vacancy, unless such vacancy occurs within one (1) year of a general election, in which event such vacancy may be filled by the Council until the next election.
- ~~(3)~~ (4) A vacancy on the Council, except for the Mayor, shall be filled as follows:
 - (a) If a vacancy occurs and the remainder of the unexpired term is 28 months or less, the remaining Council Members, including the Mayor, shall within sixty (60) days following the occurrence of such vacancy, by majority vote of the Council ~~Members~~, appoint a person to fill the vacancy for the remainder of the unexpired term.
 - (b) If the remainder of the unexpired term exceeds 28 months, the remaining Council ~~Members~~ shall, within sixty (60) days following the occurrence of such vacancy, by majority vote of the Council ~~Members~~, appoint a person to fill the vacancy until the next regularly scheduled City election at which the balance of the term for the seat shall be filled in accordance with Article V.
 - (c) If four or more Council vacancies occur at one time, the Governor shall fill such vacancies until successors are chosen at the next regular election.

Section 3.07. Meetings and Procedures.

- (1) The Council shall schedule a minimum of twelve (12) regular meetings each year. Special meetings may be held at the call of the ~~Chairman~~ Mayor or a majority of Members and, except in an emergency, all meetings shall be upon at least 24 hours notice to each Member and the public.
- (2) A majority of the Council shall constitute a quorum. No action by the Council shall be valid unless adopted by the affirmative vote of at least a majority of Council Members present and voting at the City Council meeting. Nothing herein shall prohibit the City Council from enacting an ordinance which provides for a supermajority vote unless otherwise required or prohibited by law.
- (3) All Council Members, including the Mayor, present shall vote on all matters before the City Council except on those matters on which a Council Member announces a conflict of interest or the City Attorney determines there is a conflict of interest.

ARTICLE IV. ADMINISTRATIVE

Section 4.03. Powers and Duties of the City Manager.

The City Manager shall:

- (1) Appoint, suspend, demote, or dismiss any City employee under the City Manager's jurisdiction in accordance with law, and may authorize any department head to exercise these powers with respect to subordinates in that department.
- (2) Direct and supervise the administration of all departments of the City except the offices of the City Attorney and City Clerk.
- (3) Attend all City Council meetings unless excused by the Council, and shall have the right to take part in discussions, but not vote.
- (4) See that all laws, Charter provisions, ordinances, resolutions, and other acts of the Council subject to enforcement are faithfully executed, and perform such other duties as are specified in this Charter and the City Code.
- (5) Submit the annual budget, budget message, and capital program to the Council and shall keep the Council fully advised as to the financial condition and future needs of the City, and shall make such recommendations to the Council concerning the affairs of the City as the City Manager deems appropriate. The City Manager shall promptly communicate to Council his/her reasonable expectation of any deviations of \$250,000.00 (plus or minus) from an expenditure identified within the annual budget.
- (6) Shall designate a qualified City employee to exercise the powers and perform the duties of City Manager during any temporary absence or incapacity of the City Manager. The Council may revoke such designation at any time and appoint another qualified person, other than a currently seated Council Member, to serve as acting City Manager until the City Manager returns or his/her incapacity shall cease.
- ~~(7) Shall appoint an employee to serve as City Clerk who shall give notice of public meetings, keep a journal of City Council proceedings, attest documents, and perform other duties as assigned.~~

Section 4.05. City Clerk.

A City Clerk shall be appointed by and shall serve at the will of the City Council. The salary of the City Clerk shall be fixed by the Council.

SECTION 3: That the below sections of the Chapter 2 "Administration" of the Code of Ordinances of the City of Marco Island, Florida, are hereby amended to read as follows:

ARTICLE II. MAYOR AND CITY COUNCIL

Sec. 2-31. Induction of members into office: oath.

~~Except as provided by section 2-31.1, the~~ The newly elected councilmembers, including Mayor, shall take office at noon on the Monday following their election, and shall be inducted into office at a special meeting called for that purpose. At that time, the city attorney or any judicial officer shall administer an oath of office to the newly elected councilmembers. The oath of office shall be as follows:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the Laws of the United States and of the State of Florida; that I will, in all respects, observe the provisions of the Charter and the Ordinances of the City of Marco Island, and will faithfully discharge the duties of the office of the Mayor/City Council."

Sec. ~~2-31.1.~~ 32. Mayoral and City council election dates; commencement of term; qualifying; vacancy in candidacy; extension of term.

~~(a) Priority of provisions.~~ The provisions of this section 2-31.1 shall control over any conflicting provision of the City Code or Charter to the fullest extent authorized by F.S. § 100.3605 (2).

~~(b)~~ (a) Election dates. Beginning with the general municipal election to be held in 2024, a Mayor shall be elected from the qualified electors of the City for a period of four (4) years, or until his/her successor is duly elected at a general municipal election. At each general election, three (3) Council Members shall be chosen. The three (3) candidates receiving the highest number of votes shall hold office for four (4) years or until their successors are duly elected at a general municipal election.

~~The regular municipal election shall be held on the last Tuesday in January for the 2008 and 2010 elections, and, beginning with the 2012 election and every election thereafter, the regular municipal election shall be held on the first Tuesday, following the first Monday, in November of even-numbered years.~~

~~(b)(c) Commencement of terms.~~ Those persons certified as duly elected in the 2008 and 2010 elections shall take office at the second city council meeting held in March. Those persons certified as duly elected in the 2012 election, and any election thereafter, shall take office at the next city council meeting held following the certification of the election results. Terms of office shall remain staggered such that elections to fill ~~four~~ three (3) City Council seats and the office of a Mayor shall be conducted during presidential election years and other three (3) City Council seats during non-presidential election years.

~~(d)~~ (c) Qualifying; vacancy in candidacy.

(1) The qualifying period for candidates shall begin at 8:00 a.m. on the sixteenth Tuesday prior to the election and end at 5:00 p.m. on the fourteenth Tuesday preceding the election.

(2) If the death, withdrawal or removal of a qualified candidate or candidates following the end of the qualifying period results in the number of candidates remaining on the ballot equal to or less than the vacancies on city council, one supplemental qualifying period shall be established for a period of five days beginning on the first day following the vacancy in candidacy. No further supplemental qualifying period shall thereafter be established and no supplemental qualifying period shall be established at all if a vacancy in candidacy occurs within 30 days prior to the date of the general municipal election. If within 30 days prior to the date of the general municipal election for city council there remains a number of candidates on the ballot equal in number to the

vacancies on city council, said candidates shall be declared elected and no election for city council shall be required. In the event that there are less candidates than vacancies following the qualifying period or supplemental qualifying period, said remaining qualified candidates shall be declared elected and city council shall, within 60 days, by majority vote of the councilmembers seated, appoint a person to fill the vacancy or vacancies until the next regularly scheduled city election at which the seat shall be filled in accordance with Article V of the City Charter.

~~(e) *Extension of term.* The term of office for those certified as duly elected in the 2008 election shall be extended to the date of the 2012 election. The term of office for those certified as duly elected in the 2010 election shall be extended to the date of the 2014 election.~~

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 4. CITY CLERK

Sec. 2-121. Office established; duties.

The ~~city manager~~ City Council shall appoint a city clerk who shall be responsible for the following:

- (1) Provide public notice of all public meetings to city council and the public.
- (2) Keep a journal of all city council proceedings, which shall be a public record.
- (3) Be custodian of all official records.
- (4) Supervise city elections, initiatives, and referendums.
- (5) Provide access to public records as required by article 1, section 24, of the state constitution and F.S. ch. 119, as amended.
- (6) Serve as a member of the board of trustees of the City of Marco Island Firefighters' Pension Plan and the board of trustees of the City of Marco Island Police Officers' Pension Plan, if eligible.

SECTION 4: Election Called. That a special election is hereby called, to be held on Tuesday, March 19, 2024 in conjunction with the Presidential Preference Primary election, to preset to the qualified voters of the City of Marco Island, the ballot questions provided in Section 5 of this Ordinance.

SECTION 5: Form of Ballot. That the form of ballot for the Charter amendments provided for in Section 2 of this Ordinance shall be substantially as follows:

A. Establishment of the Office of the Mayor

The Charter currently provides that all legislative authority is vested in a seven-member City Council, with no other directly elected official(s). It is proposed that the Charter be amended to provide that starting 2024 general election, Office of the Mayor shall be established. Mayor will have same term limits as other City Council members – two four-year terms in a lifetime.

Shall the above-described Charter Amendment be adopted?

YES ()

NO ()

B. City Clerk Reporting Directly to the City Council

The Charter currently provides that the City Clerk is appointed by and reports to the City Manager. It is proposed that the Charter be amended to provide the City Clerk report directly to the elected City Council.

Shall the above-described Charter Amendment be adopted?

YES ()

NO ()

SECTION 6: The City Clerk is directed to submit to the Collier County Supervisor of Elections the Charter Amendment question with the Ballot Questions as set forth in Exhibit "A," attached hereto and incorporated herein, followed by "Yes" for approval and "No" for rejection, for inclusion on the ballot for said election. The Collier County Supervisor of Elections is hereby requested to place the referendum questions in Exhibit "A," on the ballot at the March 19, 2024, Presidential Preference Primary Election.

SECTION 7: That copies of this Ordinance #23-___ concerning the Charter Amendments are on file at the office of the City Clerk located at 50 Bald Eagle Drive, Marco Island, Florida 34145, and are available for public inspection during regular business hours.

SECTION 8: The City Clerk and Collier County Supervisor of Elections are authorized to take all steps necessary or advisable to conduct the special election in accordance with state law and the City Charter.

SECTION 9: Inclusion in the Charter. That is the intent of the City Council and it is hereby provided that the Charter amendments shall become and be made a part of the Charter of the City of Marco Island, Florida, and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 10: Application of Amendments. That each of the Charter amendments

adopted by the electors shall be applied prospectively only.

SECTION 11: Severability/Interpretation. If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

In interpreting this Ordinance, underlined words indicate additions to existing text, and stricken through words include deletions from existing text. Asterisks (* * *) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 12. Effective Date. That each of the Charter amendments which are provided for in Section 2 and changes to the Marco Island Code of Ordinances which are provided in Section 3 above shall become effective only if the majority of the qualified electors voting on the specific Charter amendment vote for its adoption, and it shall be considered adopted and effective upon certification of election results.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this ____ day of October 2023.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

Joan Taylor, City Clerk

Greg Folley, Chairman

Approved as to form and legal sufficiency:

Alan L. Gabriel, City Attorney