

ORDINANCE NO. 9179-18

AN ORDINANCE OF THE CITY OF CLEARWATER, FLORIDA, SUBMITTING TO THE CITY ELECTORS PROPOSED AMENDMENTS TO THE CITY CHARTER CHANGING CLEARWATER'S FORM OF GOVERNMENT FROM THE COUNCIL-MANAGER FORM OF GOVERNMENT TO MAYOR-COUNCIL FORM OF GOVERNMENT; PROVIDING FOR ALL EXECUTIVE AND ADMINISTRATIVE POWERS TO BE VESTED IN THE MAYOR; PROVIDING THAT THE MAYOR WILL NOT BE A MEMBER OF THE COUNCIL; PROVIDING FOR THE SETTING OF THE MAYOR'S COMPENSATION BY COUNCIL WITH A MINIMUM SET SALARY; ELIMINATING THE CITY MANAGER POSITION; PROVIDING FOR A CITY ADMINISTRATOR TO BE HIRED BY THE MAYOR WITH CONFIRMATION BY COUNCIL; PROVIDING THAT THE CITY ADMINISTRATOR SHALL SERVE AS ACTING MAYOR IN THE MAYOR'S ABSENCE OR DISABILITY; PROVIDING THAT THE MAYOR SHALL APPOINT THE FIRE CHIEF AND CHIEF OF POLICE SUBJECT TO CONFIRMATION BY COUNCIL; PROVIDING FOR THE MAYOR TO PRESENT A BUDGET TO THE COUNCIL FOR APPROVAL; PROVIDING THAT ALL POWERS OF THE CITY SHALL BE VESTED IN THE CITY COUNCIL EXCEPT THOSE SPECIFICALLY GIVEN TO THE MAYOR OR RESERVED TO THE ELECTORS; REMOVING THE REQUIREMENT THAT THE COUNCIL EVALUATE THE CITY MANAGER AND CITY ATTORNEY; PROVIDING THAT THE COUNCIL MAKE ALL APPROPRIATIONS FROM THE CITY TREASURY; PROVIDING FOR ELECTION OF THE MAYOR BY MAJORITY VOTE; PROVIDING FOR MAYORAL RUNOFF ELECTION; PROVIDING THAT COMMENCING IN 2020 THREE COUNCILMEMBERS SHALL BE ELECTED IN ONE YEAR; RESETTING THE TERM LIMITS FOR THE MAYOR; PROVIDING FOR A COUNCIL CHAIR AND VICE CHAIR AND DESCRIBE THE PROCEDURE FOR THEIR ELECTIONS; PROVIDING FOR AN INTERNAL AUDITOR TO BE APPOINTED BY THE COUNCIL AND PROVIDE FOR AN AUDIT COMMITTEE; REPLACING VARIOUS REFERENCES

TO THE CITY MANAGER WITH REFERENCES TO THE MAYOR; AUTHORIZING MAYOR TO APPOINT BOARD MEMBERS WITH COUNCIL CONFIRMATION; AUTHORIZING THE COUNCIL CHAIR, MAYOR, AND ANY COUNCIL MEMBER TO PUT ITEMS ON THE MEETING AGENDA; PROVIDING FOR THE SUBMISSION OF ORDINANCES TO THE MAYOR, OUTLINING MAYOR'S VETO POWER AND PROCESS FOR COUNCIL OVERRIDE OF VETO; AUTHORIZING COUNCIL STAFF; PROVIDING FOR A CITY ATTORNEY TO BE APPOINTED BY THE MAYOR AND CONFIRMED BY COUNCIL; PROVIDING FOR THE APPOINTMENT OF SPECIAL ASSISTANT CITY ATTORNEY FOR THE MAYOR AND FOR COUNCIL; PROVIDING FOR TRANSITION PROVISIONS; PROVIDING FOR A REFERENDUM ELECTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a citizen's group approached the City Council requesting City Council to prepare and place a charter amendment on the November 6, 2018 ballot to change the city's form of government from Council-Manager to a Mayor-Council form; and

WHEREAS, City Council determined that it was appropriate to prepare and present charter amendments to the voters of Clearwater to determine whether they want to adopt a strong mayor-council form of government; and

WHEREAS, City Council established a joint task force to draft the charter amendments required to effect a Mayor-Council form of government; and

WHEREAS, members of the last two Charter Review Committees were approached and invited to be members of the Strong Mayor Task Force; and

WHEREAS, the Task Force and the City Council held joint meetings once a week for eight consecutive weeks, each meeting lasting approximately three hours; and

WHEREAS, the Joint Task Force approved proposed amendments to the City Charter and requested the City Attorney to draft an amended charter, ordinance amending the charter, and a referendum question to be presented to the City Council for approval and submittal to the city electors at a special city referendum election to be held in conjunction with the regularly scheduled Federal, State and County election on November 6, 2018; 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. ~~It is hereby proposed that~~ Article II of the City Charter ~~be is~~ amended as follows:

Section 2.01. - Council; composition; powers.

(a) *Composition.* There shall be a city council, (the "council"), composed of five council members, ~~including the mayor~~. The members will occupy seats numbered one through five, inclusive. All members shall be elected at large by the voters of the city.

(b) *Powers.* All legislative power of the city shall be vested in the council, except as otherwise provided by law or the provisions of this charter, and the council shall provide for the exercise thereof and for the performance of all duties and obligations imposed upon the city by law except as otherwise provided herein. All powers of the city shall be vested in the city council except those powers specifically given to the mayor or reserved to the electors of the city in this charter.

(c) *Duties.* It shall be the duty of the council to discharge the obligations and responsibilities imposed upon the council by state law, city ordinance and this charter. As a part of the discharge of its duty, the council shall:

~~1. Each October at a public meeting, present a report on the evaluation of the performance of the city manager and city attorney.~~

~~21.~~ Adopt by ordinance a comprehensive system of fiscal management. The fiscal management ordinance shall include provisions relating to the operating budget, capital budget and capital program, and provide for hearings on the budget, capital budget and capital program and the amendment of the budget following adoption.

~~32.~~ Provide for an annual or more frequent independent audit of all city accounts by a firm of certified public ~~accountants, and accountants and~~ provide for publication of a notice of availability of each audit. No firm shall be employed for more than five consecutive years. All audits shall be in accordance with law.

~~43.~~ Regulate comprehensive planning, zoning and land development as provided by law.

(d) *Limitations.* The legislative power provided herein shall have the following limitations:

(1) The total indebtedness, which for the purpose of this limitation shall include revenue, refunding, and improvement bonds of the city, shall not exceed 20 percent of the current assessed valuation of all real property located in the city. The total budgeted expenditures in any fiscal year shall not exceed the total estimated revenue plus any unencumbered funds carried forward from a prior fiscal year. No money may be disbursed from the City treasury except pursuant to appropriations made by the city council.

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Section 2.02. - Qualifications.

Members of the council shall be qualified voters of the city and shall have continuously resided in the city for at least one year prior to submitting a petition for election. The council shall be the judge of the election and the other qualifications of its members and mayor [AP1] and of the grounds for forfeiture of their office.

Section 2.03. - Election and terms.

Commencing with the terms beginning in 2008, all council members, ~~including the mayor [AP2]~~, shall be elected for terms of four years. Terms shall overlap, with ~~two-three~~ council members ~~and the mayor~~ elected one year commencing in 2020, 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.

~~Newly elected council members shall take office the next business day following certification of city election returns.~~

Section 2.04. - Compensation and expenses.

The council may determine the annual salary of council members ~~and the mayor~~ by ordinance. No ordinance increasing such salary shall become effective until the date of commencement of the terms of council members elected at the next regular election, occurring at least six months following the adoption of such ordinance. Council members shall be reimbursed their actual and necessary expenses incurred in the performance of their duties of office.

Section 2.05. — ~~Mayor~~Chair, vice-chair, functions, and powers.

At the first council meeting each April, the council shall elect one of its members as chair and one member as vice-chair. The ~~mayor-chair~~ shall preside at all meetings of the council, perform such other duties consistent with the office as may be imposed by the council and this charter, ~~and shall have a voice and a vote in the proceedings of the council, but no veto power.~~ The ~~mayor-chair~~ may execute legal instruments on behalf of the city or otherwise as required by law. This authorization does not confer upon the ~~mayor chair~~ administrative duties except as required to carry out the responsibilities stated in this charter. ~~The mayor shall be recognized as the official head of the city by the courts for the service of process, by the governor for purposes of military law, and for all ceremonial purposes.~~

~~At the first council meeting each April, the council shall elect one of its members as vice-mayor. The vice-mayor shall act as mayor during the temporary absence or inability of the mayor to perform the duties of the office of the mayor.~~

Section 2.06. - Prohibitions.

(a) *Appointments and removals.* Except as otherwise provided herein, Neither ~~neither~~ the council nor any of its members shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the ~~city manager~~ mayor, or any of the ~~city manager's~~ mayor's subordinates, is empowered to appoint.

(b) *Dealing through* ~~city manager~~ mayor. Except during an investigation, the council members shall deal with city officers and employees who are subject to the direction and supervision of the ~~city manager~~ mayor solely through the ~~city manager~~ mayor. Neither the council nor its members shall give orders to any such officer or employee, either publicly or privately. Recommendations for improvement in city operations by individual council members shall be made to and through the ~~city manager~~ mayor.

Nothing in the foregoing paragraph prohibits individual members of the council from asking questions and observing city operations so as to obtain independent information to assist them in the formulation of policy, ordinances and resolutions.

(c) *Holding other office.* No present or former council member shall hold any compensated appointive city office or employment until one year after the expiration of the term for which such council member was elected.

Section 2.07. - Vacancies; forfeiture of office; filling vacancies; ~~advisory~~ boards. [AP3]

(e) *Boards.* The council is empowered to appoint such committees or boards required by charter to appointed by council and such advisory boards as it deems appropriate and regulatory board(s) as may be ~~established~~ required by law to be appointed by the legislative body.

Section 2.08. - Procedure.

(a) *Meetings.* The council shall meet regularly at least once each month at such times and places as the council may prescribe by rule. Special meetings may be held on call of the ~~mayor~~ [AP4], ~~the city manager~~ Chair, or any two council members and, when practical, upon no less than 24 hours' notice to each member and the public. All meetings shall be public, except as otherwise provided by law. The ~~city manager~~ mayor, chair and any council member shall have the power to cause any item to be placed on the next agenda.

Section 2.09. - Ordinances and resolutions in general.

(e) Submission of ordinances to mayor.

All ordinances approved by Council shall be submitted to the mayor before becoming law; if he approves the ordinance he shall sign it, if not he shall return it with his objections to the council and such objection shall be entered into the minutes. The council

shall then reconsider the ordinance at its next regular meeting at which there is a quorum or at a special meeting called for that purpose. If after reconsideration it passes by majority +1 vote of all council members it shall become law. If any ordinance shall not be returned to the council by 5 PM on the fifth day after Council has adopted the ordinance shall it shall become effective without signature.

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Section 2.10. - Authentication, recording and disposition of charter amendments, ordinances, and resolutions.

(a) *Authentication.* The ~~mayer~~chair or vice chair and the city clerk shall authenticate by their signatures all ordinances and resolutions adopted by the council. In addition, when charter amendments have been approved at referendum.

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Section 2.11. City Council staff.

The city council shall establish an Office of the City Council and may hire the following who shall be responsible to the City Council through the Chair of the Council: (a) Budget Analyst. The City Council is authorized to employ a Budget Analyst or an individual with similar qualifications, pursuant to the City's position classification code, to assist in the budgetary matters of the City Council. The City Council, by ordinance, shall define the qualifications, pay and responsibilities of said employee in accordance with the City's position classification code. The employee shall be subject to termination by a majority vote of the City Council; (b) Council Executive. The City Council is authorized to hire a Council Executive. The City Council shall define the qualifications, pay and responsibilities of said employee in accordance with the City's position classification code. The employee shall be subject to termination by a majority vote of the City Council; (c) Executive Assistant. The City Council is authorized to hire an Executive Assistant. The City Council shall define the qualifications, pay and responsibilities of said employee in accordance with the City's position classification code. The employee shall be subject to termination by a majority vote of the City Council; and (d) Other Staff. The City Council may create and fill other staff positions for the purpose of assisting it in the performance of its legislative function.

Section 3. ~~It is hereby proposed that Article III of the City Charter be is~~ amended as follows:

Section 3.01. - ~~City manager~~Mayor.

The ~~city manager~~mayor shall serve as the chief administrative officer and chief executive officer of the city and shall be responsible for the proper administration and conduct of the executive work and affairs of the city. The mayor shall be recognized as the official head of the city by the courts for the purpose of service of process and by the governor for the purpose of military law and for all ceremonial purposes. ~~The city manager shall be appointed on the basis of administrative qualifications, experience, and training.~~

~~The city manager need not be a resident of the city or state at the time of appointment, but shall establish and maintain residency within the city within one year after the appointment. The city manager shall be responsible to the council for all city administrative affairs. The mayor shall maintain an office in a City Hall leased or owned facility and shall devote full time to the duties of that office.~~

~~Section 3.02. - Appointment; removal Election and terms; absence; compensation.~~

~~(a) *Appointment Election and Terms.* The council shall appoint a city manager by an affirmative vote of four council members. The city manager shall hold office at the pleasure of the council. The mayor shall be elected at large and shall be elected for a term of four years. The mayor shall be a qualified voter of the city and shall have continuously resided in the city for at least one year prior to submitting a petition for election. The mayor shall continue to be a resident and elector of the city during the term of office. No person who has, or 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 the office of Mayor on the date of the next election for mayor after 2020.~~

~~(b) *Removal.* The council may remove the city manager by an affirmative vote of four council members or a majority of the council members at two separate meetings held at least two weeks apart. Upon request by the city manager, a public hearing will be held prior to a vote to remove the city manager.~~

~~(c) *Compensation.* The compensation of the city manager mayor shall be fixed by a majority of all the council members and may be adjusted annually. In no event shall the annual salary be less than one hundred twenty thousand dollars (\$120,000).~~

~~(d) *Acting city manager Vacancy in office or unavailability of mayor.* By letter filed with the council, the city manager shall designate one or more assistant city managers to exercise the powers and perform the duties of city manager during the city manager's temporary absence or disability. This designation shall be limited to a period of 60 days. At the expiration of this period, the council shall appoint an interim or new city manager in accordance with the provisions of this charter. During any temporary absence or disability of the mayor, the city administrator shall serve as acting mayor and shall exercise the powers and perform the duties of the mayor. During a temporary absence not due to disability, the mayor shall provide the city administrator, with a copy to the city clerk, a memo delineating the extent to which to the city administrator may act on the mayor's behalf. In case the office of mayor becomes permanently vacated by death, resignation or any other reason, the city administrator shall discharge the duties of the mayor as acting mayor. When the vacancy occurs within eight months of a regularly scheduled city election and prior to the beginning of the qualifying period for that election, an election for mayor shall be held as part of the election. The acting mayor shall serve until the newly elected mayor is sworn in. The newly elected mayor shall serve the unexpired term of the previous mayor if the election is one in which there would not normally be a mayoral race. If the vacancy occurs at any other time and would require the city administrator to serve as acting mayor for a period of greater than six months, then city council shall schedule a special~~

election for mayor to be completed within five months of the occurrence of the vacancy. City council shall by ordinance provide for the dates of the elections and the length of the qualifying period, which qualifying period shall no event be less than one week. The individual elected in this manner shall take office the next business day following certification of the election and shall serve the remainder of the unexpired term.

Section 3.03. - Powers and duties of the ~~city manager~~ mayor.

The ~~city manager~~ mayor shall:

(a) Appoint, promote, and suspend, demote, or remove any city employees or appointive administrative officers under the ~~city manager's~~ mayor's jurisdiction, except as may be otherwise provided by law. Such appointment, promotion, suspension, demotion, or removal shall be in compliance with the civil service law and other applicable rules and regulations.

(b) Establish or discontinue any city department, division or board in the administrative affairs of the city, subject to council approval.

(c) Upon request of city council ~~a~~ Attend council meetings, or send a representative, and have the right to take part in discussion, but not to vote.

(d) See to the faithful execution of all laws, provisions of this charter, and acts of the council subject to enforcement by the ~~city manager~~ mayor or officers subject to the ~~city manager's~~ mayor's supervision.

(e) At least one month prior to the release of the draft budget, present in a city council meeting, draft strategic priorities for the upcoming fiscal year. The council and members of the public may discuss and comment on the strategic priorities, but council approval is not required.

(ef) Prepare, ~~and submit~~ and present to the council in the form provided by ordinance, the annual budget, a capital improvement budget, and a projected capital improvement program for a minimum five-year period, each of which shall be tied to the mayor's strategic priorities.

(fg) Submit to the council at the first regular meeting in ~~September-December~~ of each year and make available to the public, a comprehensive report on the financial condition and administrative activities of the city, and the implementation status report on the identified strategic priorities.

(gh) Make such other reports as the council may require concerning the operations of city departments, offices and agencies subject to the ~~city manager's~~ mayor's supervision.

(hi) Keep the council fully advised as to the financial condition and future needs of the city and make recommendations to the council concerning the affairs of the city.

(ij) Sign contracts on behalf of the city pursuant to the provisions of appropriations ordinances.

(jk) Develop and keep current an administrative code which sets forth the organizational and operational procedures of the city government.

(kl) Provide administrative assistance to the council in connection with their official duties, and perform such other duties as are specified in this charter or may be required by

the council.

(lm) Act as purchasing agent for the city.

(mn) appoint and remove the members of boards, committees and commissions except as otherwise provided herein and except those required by state law to be made by the city council as the governing body of the city. All mayoral appointments shall be submitted to council for confirmation. If council rejects the appointee, the mayor shall submit a new appointee within four weeks.

(no) the negotiation of all contracts, franchises, acquisition and disposition of property and, upon the approval of council, the execution on behalf of the city of all agreements, leases, deeds and other instruments in connection therewith; however, all limitations contained in section 2.01 (d) of this charter shall apply.

Section 3.04 -Veto power.

The mayor may veto any ordinance passed by council, except an emergency ordinance and those ordinances passed as a result of quasi-judicial proceedings when such proceedings are mandated by law and ordinances proposing charter amendments, which the council is required by law or by this charter to place on the ballot. The mayor may veto any line item in a budget or appropriation ordinance. The mayor must exercise veto power by 5 PM on the fifth business day after the day the council adopts the ordinance. On the day the mayor vetoes an ordinance the mayor shall submit written objections to the council.

Section 3.04-05 - City clerk.

The ~~city manager~~ mayor shall appoint a city clerk, which appointment must be confirmed by the council prior to becoming effective. The city clerk or the designee of the city clerk shall:

- (a) Be custodian of all records and the official seal of the city;
- (b) Attest all documents requiring attestation and agreements to which the city is a party;
- (c) Arrange for and supervise all city elections;
- (d) Attend all meetings of the council and keep minutes of its proceedings;
- (e) Give notice of council meetings to its members and the public;
- (f) Perform such other duties as directed or required by law.

Section 3.06 - City Administrator.

The mayor shall appoint a city administrator subject to confirmation by city council. The mayor shall have the authority to terminate the city administrator without consent of council. The city administrator shall have relevant management, executive or administrative experience. The city administrator need not be a resident of the city or state at the time of appointment but shall establish and maintain residency within the city within 1 year after the appointment.

Section 3.07 - Council confirmation

Subject to confirmation by city council, the mayor shall appoint the fire chief and chief of police. The mayor shall have the authority to terminate the fire chief and chief of police without consent of council.

Section 3.0508. - Personnel system.

Appointments and promotions of city officials and employees, except those specifically exempted by ordinance, shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence as provided by law.

Section 4. ~~It is hereby proposed that~~ Article IV of the City Charter ~~be is~~ amended as follows:

Section 4.01. - City attorney, legal department.

There shall be a city attorney who shall provide advice and counsel on behalf of the city. The city attorney shall be an attorney at law in good standing and shall be the head of the Legal Department, which shall handle the legal affairs of the city.

(a) Duties.

1. In regard to all affairs of the city, the city attorney shall be the legal advisor to the mayor, the city council and committees thereof, and all of the several departments, officers and boards of the city government; and, when required, shall furnish written or oral opinions to them upon any subject in which the city is interested. Copies of any such written opinions shall be kept on file in the city attorney's office, and duly surrendered to any successor;

2. Commence and prosecute all actions and lawsuits brought by the city provided that no lawsuit other than prosecutions of city ordinance violations may be filed without city council approval;

3. Represent and defend the city in all lawsuits or actions brought against the city;

4. In accordance with any resolutions, ordinances or agreements approved by city council, and where also permitted by law and the ethical standards of the Florida Bar, represent, and defend any officer, official or employee of the city in any suit or action arising out of any act performed in the discharge of their official duties;

5. Prepare, or cause to have prepared, all contracts, bonds and other instruments in writing which legally obligate the city and endorse on each approval of the form and correctness thereof; and

6. Perform all other duties that may be imposed upon the city attorney by this charter or by ordinance provided such ordinance is consistent with this charter.

(b) Appointment and Removal.

The mayor, subject to city council approval, shall appoint the city attorney and such assistant city attorneys as are deemed necessary and expedient. Authority for removal of these assistant city attorneys shall be with the city attorney. The city attorney may delegate to these assistant city attorneys and, where appropriate, to Special Legal Counsel, employed as provided herein, the responsibility for performing the various duties of the city attorney imposed by this charter. Removal of the city attorney shall be by the mayor with approval by a majority vote of city council.

(c) Absence. By letter, filed with the council, the city attorney shall designate one or more assistant city attorneys to perform the duties of city attorney during a temporary absence or disability. This designation shall be limited to a period of 60 days. At the expiration of this time, the council shall appoint an interim or new city attorney in accordance with the provisions of this charter.

Section 4.02. – Special Counsel; Special Assistant City Attorneys.

(a) The mayor, subject to city council approval, shall also have the power to employ special legal counsel whenever, in the mayor's discretion, it is necessary or may be deemed advisable for the city to be so represented or whenever the city attorney certifies to the mayor that the ethical standards of the Florida Bar prevent any member of the legal department from undertaking the representation of the city in a particular matter.

(b) The mayor and city council may each appoint, without the consent of the other, one assistant city attorney and the titles for these positions shall be respectively special assistant city attorney to the mayor and special assistant city attorney to city council. Said special assistant city attorneys shall:

1. Be responsible to the appointing entity;

2. Serve only in an advisory capacity and shall perform only such duties as are of technical nature, including drafting of ordinances, legal research and providing advisory opinions;

3. Perform such other duties as requested by the city attorney and approved by the appointing entity; and

4. Be subject to termination by the appointing entity.

The special assistant city attorneys shall not file suit or bring or defend any action in court on behalf of the City, city council or the mayor without the written authorization of the city attorney. No action or opinion of a Special assistant city attorney shall be construed to be the official legal position of the city, and such official legal positions and actions shall be solely within the scope of powers and duties of the city attorney.

~~There shall be a legal department, headed by the city attorney, operating under the authority of and responsible to the council. The legal department shall consist of the city attorney, assistant city attorneys and such other staff as the council may direct.~~

~~Section 4.02.— City attorney appointment, removal, and compensation, qualifications and duties.~~

~~(a) — Appointment. The city attorney shall be appointed by the affirmative vote of four council members and may be removed by a majority of the members of the council. Upon request by the city attorney a public hearing will be held prior to a vote to remove the city attorney. The city attorney shall be a member in good standing of The Florida Bar.~~

~~(b) — Duties. The city attorney shall be the legal advisor to the council, the city manager and all city departments, offices and agencies. When required by the city council, the city attorney shall prosecute or defend, on behalf of the city, all complaints, suits and controversies in which the city is a party; and shall prepare or review and approve as to form and legal sufficiency all contracts, bonds, and other instruments to which the city is a party. The city attorney shall perform such other duties as may be directed by law or the city council.~~

~~Section 4.03 — Assistant city attorneys; special counsel.~~

~~(a) — Assistants. The city attorney shall appoint as many assistant city attorneys as authorized by the city council.~~

~~(b) — Special Counsel. The council may employ special counsel, outside of the legal department, who shall conduct such investigations and perform such services as the council may direct and who shall report directly to the council.~~

~~Section 4.04— Compensation.~~

~~The council shall determine the compensation to be paid to the city attorney and special counsel. Compensation for the assistant city attorneys shall be established by the city attorney and approved by the council.~~

Section 5. It is hereby proposed that Article VII of the City Charter be is amended as follows:

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Section 7.02. - Charter review advisory committee.

The council and mayor shall appoint a charter review advisory committee in January, 1994, and at least every five years thereafter provided the appointments are made in January of a year preceding a city election. The charter review advisory committee shall be composed of thirteen members to be appointed as follows: two members by the mayor, three members by the council chair, two members each by the remaining council members. not less than ten members. ~~It~~ The charter review advisory committee shall review the existing charter and make recommendations to the council for revisions thereto.

Section 6. It is hereby proposed that Article VIII of the City Charter be is amended as follows:

Section 8.02. - Nonpartisan elections.

All nominations and elections for council and mayor shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition, ballot, or political advertisement under the control of the candidate.

Section 8.03. - Form of ballots.

The council shall by ordinance prescribe the form of the ballot and the method conducting all elections of the city.

(a) *Council ballots.* Candidates for seats on the council shall be grouped according to the seat number for which they are candidates. Within each group, names shall be placed on the ballot alphabetically. No candidate may seek election to more than one seat in any election.

(b) *Mayoral ballot.* Candidates for mayor shall be placed on the ballot alphabetically. No candidate may seek election to more than one seat or office in any election.

~~(b)c~~ *Charter amendment.* A charter amendment to be voted on by the voters of the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the word "yes" and also the word "no" with a location thereafter to indicate the voter's choice.

Section 8.04. - Nominations.

The names of candidates for council and mayor shall be placed upon the ballot by the filing of a written notice of candidacy with the city clerk at such time and in such manner as may be prescribed by ordinance.

Where only one candidate qualifies for nomination to a seat on the council or for mayor, then no general election shall be held with respect to the seat or office and the candidate shall be declared elected to the seat or office.

Section 8.05. - Elections.

- (a) Council positions. All members of the city council shall be elected at large. The candidate receiving the largest number of votes among the candidates for that seat shall be elected.
- (b) Mayor. The mayor shall be elected at large. The candidate receiving a majority of the votes for mayor shall be declared elected.
- (a)(c) Regular elections. Regular city elections shall be held on the second Tuesday in March of each year in which a council term or mayor's term expires.
- (d) Runoff election for mayor. If no mayoral candidate receives a majority in the regular election, a runoff election limited to the two candidates for mayor receiving the highest and next highest number of votes in the regular election shall be held no later than 60 days after the regular election.
- (b)(e) Special elections. Special municipal elections may be called by the council at any time for such purposes as are authorized by law.
- (f) Effective date of office. Newly elected council members shall take office the next business day following certification of city regular election returns. The newly elected mayor shall take office the next business day following certification of the city regular election returns or runoff election returns as applicable.
- (g) Canvassing Board. The Pinellas County Canvassing Board shall serve as the City of Clearwater's canvassing board, unless otherwise provided by ordinance.

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Section 7. ~~It is hereby proposed that~~ Article IX of the City Charter ~~be is~~ amended as follows:

ARTICLE IX. - FISCAL MANAGEMENT PROCEDURE

Section 9.01 The city's fiscal management procedure shall be adopted by ordinance and shall include provisions relating to the operating budget, capital budget, and capital program, and provide for hearings on the budget, capital budget, and capital program and the amendment of the budget following adoption.

Section 9.02 Internal auditor.
The city council shall appoint an at-will city officer with the title of internal auditor. The internal auditor shall conduct, or cause to be conducted, financial, compliance, and expanded

scope audits following generally accepted government auditing standards. The internal auditor shall have access to all records and personnel.

The internal auditor shall be an at-will employee appointed by the city council for a term of four years and may be reappointed by a majority of the council and may be terminated by a super majority of the council. To ensure independence of the audit function and to coordinate internal audit work with the needs of the mayor and the city council, an audit committee is hereby established. The audit committee shall be comprised of five (5) voting members: the mayor or designee, the chair of the city council and three (3) at-large members who shall be appointed by the city council. The at-large members shall be city residents with expertise in auditing preferably internal or management auditing and at least two (2) of whom shall be a certified public accountant or a certified internal auditor; appointments shall be staggered for terms of three (3) years. The chair of the council shall be appointed as chair of the audit committee. The audit committee shall perform an evaluation of the internal auditor annually and present such to the city council.

Section 8. Article X of the City Charter is amended as follows:

ARTICLE X. - TRANSITION SCHEDULE

Section 10.01. - Continuation of former charter provisions.

All provisions of Chapter 9710, Special Acts of 1923, Florida Legislature, as amended by special law or otherwise, which are not embraced herein and which are not inconsistent with this charter shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

Section 10.02. - Ordinances preserved.

All ordinances in effect upon the adoption of this charter to the extent not inconsistent herewith, shall remain in force until repealed or changed as provided herein.

Section 10.03. - Rights of officers and employees.

Except as is specifically provided herein, nothing in this charter shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption. City council members shall continue to hold their offices until their successors are elected.

Section 10.04. - Pending matters.

All rights, claims actions, orders, contracts and legal or administrative proceedings involving the city shall continue except as modified pursuant to the provisions of the charter.

Section 10.05. - Schedule.

Except as provided herein, tThis charter shall be in full effect for all purposes on and after approval by a majority of the electors voting in a valid election to be called for such

purpose, and upon being filed with the secretary of state.

(a) First Election. At the time of the adoption of the charter amendments as provided in Ordinance 9179-18, this charter shall be in effect to the extent necessary in order that the first election of members of the city council and mayor may be conducted in accordance with the provisions of this charter as amended. The first election shall be held on March 17, 2020. The city council shall prepare and adopt temporary regulations that are applicable only to the first election and designed to insure its proper conduct and to provide an orderly transition to the mayor-council government.

(b) Time of Taking Full Effect. The charter shall be in full effect for all purposes on and upon the certification of the election results for the mayor and the swearing in of the mayor.

Section 10.06. – Severability.

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected.

Section 9. A special referendum election is hereby called and will be held on November 6, 2018, ~~at-in conjunction a-with the~~ regularly scheduled Federal, State and County election for the consideration of the voters of the City of Clearwater for the proposed question. The title and question question to appear on the referendum ballot shall be as follows:

Changing From Council-Manager To Mayor-Council Form of Government,
Designating Mayor Chief Executive/and Administrative Officer.

Shall the charter be amended as provided in Ordinance 9179-18 to: adopt mayor-council government effective 2020; remove mayor from council; elect by majority vote, not plurality, executive mayor responsible for operations, budget and employees; provide for mayoral run-offs; provide for mayoral ordinance veto of ordinances and council override; eliminate city manager; establish mayor-appointed city administrator, appointed by mayor who will also act as mayor in mayor's absence; restart mayoral term limits; and establish council-directed internal auditor responsible to council.

Yes _____

For amendment to City Charter

No _____ Against amendment to City Charter

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 election to be held on November 6, 2018.

Section 5. This ordinance shall take effect immediately upon adoption. The amendments to the City Charter provided for herein shall take effect only upon approval of a majority of the City electors voting at the referendum election on these issues and upon the filing of the Amended Charter with the Secretary of State. [The amendments shall be implemented as provided in Article X of the charter.](#)

PASSED ON FIRST READING _____

PASSED ON SECOND AND FINAL
READING AND ADOPTED _____

George N. Cretekos
Mayor

Approved as to form:

Attest:

Pamela K. Akin
City Attorney

Rosemarie Call
City Clerk