ORDINANCE NO. 2019-24

AN ORDINANCE OF THE CITY OF WEBSTER, FLORIDA CALLING FOR A SPECIAL ELECTION TO BE HELD ON JULY 23, 2019, BY SPECIAL ELECTION, FOR THE PURPOSE OF PROPOSING TO THE ELECTORATE OF THE CITY OF WEBSTER REVISIONS TO THE CHARTER OF THE CITY OF WEBSTER RELATING TO SECTION 11 (5) PERTAINING TO THE FILLING OF VACANCIES, SECTION 12 (2) PERTAINING TO ORGANIZATIONAL MEETINGS OF THE CITY COUNCIL And SECTION 7 (1) PERTAINING TO LIMITATIONS ON TERMS OF OFFICE; PROVIDING FOR BALLOT LANGUAGE; PROVIDING FOR LEGISLATIVE AND ADMINISTRATIVE FINDINGS AND INTENT; PROVIDING FOR DUTIES OF CITY CLERK; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR REVISED CHARTER OF THE CITY OF WEBSTER; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR SEVERABILITY AND SCRIVENER'S ERRORS; PROVIDING FOR CONFLICTS AND PROVIDING FOR EFFECTIVE DATE OF ORDINANCE AND EFFECTIVE DATE OF PROPOSED CHARTER AMENDMENTS.

WHEREAS, controlling State law and the *Charter of the City of Webster, Florida* provide for alternative means whereby the *City Charter* may be amended; and

WHEREAS, the City Council has developed, and hereby recommends to the electors of the City of Webster, that the following proposed amendments to the *Charter of the City of Webster, Florida* be approved by the electors of the City at a special election held pursuant to the *Charter of the City of Webster, Florida* and applicable controlling State law; and

Whereas, the City Council of the City of Webster has concluded that it is in the best interests of the citizens of the City of Webster for the City Council to propose amendments to the *Charter of the City of Webster* at a special election in accordance the *Charter of the City of Webster* and Section 166.031, *Florida Statutes*, and in the form set forth herein; and

Whereas, the City Council of the City of Webster approved this Ordinance on first reading on the 16th day of May, 2019; and

Whereas, words with underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF WEBSTER, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS AND INTENT.

(a). The City of Webster has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(b). The foregoing recital (whereas clause) is hereby ratified, affirmed and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2. PROPOSED REVISION OF SECTION 11 (5); FILLING OF VACANCIES; *CHARTER OF THE CITY OF WEBSTER*. Section 11 (5) of the *Charter of the City of Webster, Florida*, is proposed to be amended to read as follows:

Section 11. Vacancies; forfeiture of office; suspension; recall; filling of vacancies.—

(1) – (4) . . . . [Unchanged].

(5) FILLING OF VACANCIES.—

(a) If, for any reason other than recall, a vacancy occurs in the office of Mayor ~~within the first 3 years of a term~~, the Mayor Pro Tempore shall assume the position of Mayor, and within 30 days after the occurrence of such vacancy, the City Council shall appoint a new Council Member to fill the vacancy on the City Council ~~a special election for Mayor shall be held to elect a Mayor~~ for the remainder of the unfilled term.

(b) ~~In the event that the office of Mayor becomes vacant with less than 1 year remaining in the term, the Mayor Pro Tempore shall serve as Mayor for the remainder of the term of the Mayor and the vacancy in his or her office shall~~

~~be filled as provided in the charter for the remainder of his or her term.~~

~~(c)~~ If, for any reason other than recall, a vacancy occurs in the office of a City Council seat, other than Mayor ~~, within the last year of a term,~~ the office shall be filled for the remainder of the term by appointment within 30 days after the occurrence of such vacancy by majority vote of the remaining City Council members.

~~(d) If, for any reason other than recall, a vacancy occurs in the office of a City Council seat within the first 3 years of a term, the office shall be filled by appointment within 30 days after the occurrence of such vacancy by majority vote of the City Council and such appointment shall expire when a City Council member is elected and he or she is seated in accordance with this charter.~~

(c) ~~(e)~~ If a vacancy occurs as a result of a recall petition, such vacancy will be filled by special election as provided in general law.

(d) ~~(f)~~ Before a person is appointed to fill a vacant seat on the City Council, he or she must meet all qualifications for office.

SECTION 3. BALLOT QUESTION NUMBER ONE. The form of the ballot for the *Charter* amendment provided for in Section 2 of this Ordinance shall be as follows:[1]

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1 See, Section 101.161, *Florida Statutes*, relating to referenda and ballots relating thereto. The statutory provision provides as follows:

> *101.161 Referenda; ballots.—*
> (1) Whenever a constitutional amendment or other public measure is submitted to the vote of the people, a ballot summary of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the proposal and a "no" vote will indicate rejection. The ballot summary of the amendment or other public measure and the ballot title to appear on the ballot shall be embodied in the constitutional revision commission proposal, constitutional convention proposal, taxation and budget reform commission proposal, or enabling resolution or ordinance. The ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of

the measure. In addition, for every amendment proposed by initiative, the ballot shall include, following the ballot summary, a separate financial impact statement concerning the measure prepared by the Financial Impact Estimating Conference in accordance with s. 100.371(5). The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of. This subsection does not apply to constitutional amendments or revisions proposed by joint resolution.

(2) The ballot summary and ballot title of a constitutional amendment proposed by initiative shall be prepared by the sponsor and approved by the Secretary of State in accordance with rules adopted pursuant to s. 120.54. The Department of State shall give each proposed constitutional amendment a designating number for convenient reference. This number designation shall appear on the ballot. Designating numbers shall be assigned in the order of filing or certification and in accordance with rules adopted by the Department of State. The Department of State shall furnish the designating number, the ballot title, and, unless otherwise specified in a joint resolution, the ballot summary of each amendment to the supervisor of elections of each county in which such amendment is to be voted on.

(3)(a) Each joint resolution that proposes a constitutional amendment or revision shall include one or more ballot statements set forth in order of priority. Each ballot statement shall consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language. If a joint resolution that proposes a constitutional amendment or revision contains only one ballot statement, the ballot summary may not exceed 75 words in length. If a joint resolution that proposes a constitutional amendment or revision contains more than one ballot statement, the first ballot summary, in order of priority, may not exceed 75 words in length.

(b) The Department of State shall furnish a designating number pursuant to subsection (2) and the appropriate ballot statement to the supervisor of elections of each county. The ballot statement shall be printed on the ballot after the list of candidates, followed by the word "yes" and also by the word "no," and shall be styled in such a manner that a "yes" vote will indicate approval of the amendment or revision and a "no" vote will indicate rejection.

(c)1. Any action for a judicial determination that one or more ballot statements embodied in a joint resolution are defective must be commenced by filing a complaint or petition with the appropriate court within 30 days after the joint resolution is filed with the Secretary of State. The complaint or petition shall assert all grounds for challenge to each ballot statement. Any ground not asserted within 30 days after the joint resolution is filed with the Secretary of State is waived.

2. The court, including any appellate court, shall accord an action described in subparagraph 1. priority over other pending cases and render a decision as expeditiously as possible. If the court finds that all ballot statements embodied in a joint resolution are defective and further appeals are declined, abandoned, or exhausted, unless otherwise provided in the joint resolution, the Attorney General shall, within 10 days, prepare and submit to the Department of State a revised ballot title or ballot summary that corrects the deficiencies identified by the court, and the Department of State shall furnish a designating number and the revised ballot title or ballot summary to the supervisor of elections of each county for placement on the ballot. The revised ballot summary may exceed 75 words in length. The court shall retain jurisdiction over challenges to a revised ballot title or ballot summary prepared by the Attorney General, and any challenge to a revised ballot title or ballot summary must be filed within 10 days after a revised ballot title or ballot summary is submitted to the Department of State.

(4)(a) For any general election in which the Secretary of State, for any circuit, or the supervisor of elections, for any county, has certified the ballot position for an initiative to change the method of selection of judges, the ballot for any circuit must contain the statement in paragraph (b) or paragraph (c) and the ballot for any county must contain the statement in paragraph (d) or paragraph (e).

(b) In any circuit where the initiative is to change the selection of circuit court judges to selection by merit selection and retention, the ballot shall state: "Shall the method of selecting circuit court judges in the (number of the circuit) judicial circuit be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word

Mayor/City Council Vacancies; Filling Without Expense Of Election.

An amendment to the *Webster City Charter* is proposed to provide that the Mayor Pro Tempore will fill the remainder of the Mayor's term in the event of vacancy and that the City Council would appoint a new Council Member for the remainder of the unfilled terms in the event of vacancy which changes would avoid the need to have costly special elections. Do you favor the amendment?

Yes [ ]

No [ ]

SECTION 4. PROPOSED REVISION OF SECTION 12 (2); ORGANIZATIONAL MEETINGS; *CHARTER OF THE CITY OF WEBSTER.* Section 12 (2) of the *Charter of the City of Webster, Florida*, is proposed to be amended to read as follows:

Section 12. City Council meetings; organizational meeting; quorum; special meeting.—

(1) . . . . [Unchanged].

(2) The newly elected City Council members, if any, shall be installed, on the date of the first regularly scheduled City Council meeting ~~second Tuesday after the first Monday~~ in January after their election, after taking the oath of office. This date shall be the date referred to in Section 9 (2).

(3) – (8) . . . . [Unchanged].

"yes" and also by the word "no."

(c) In any circuit where the initiative is to change the selection of circuit court judges to election by the voters, the ballot shall state: "Shall the method of selecting circuit court judges in the (number of the circuit) judicial circuit be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(d) In any county where the initiative is to change the selection of county court judges to merit selection and retention, the ballot shall state: "Shall the method of selecting county court judges in (name of county) be changed from election by a vote of the people to selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people?" This statement must be followed by the word "yes" and also by the word "no."

(e) In any county where the initiative is to change the selection of county court judges to election by the voters, the ballot shall state: "Shall the method of selecting county court judges in (name of the county) be changed from selection by the judicial nominating commission and appointment by the Governor with subsequent terms determined by a retention vote of the people to election by a vote of the people?" This statement must be followed by the word "yes" and also by the word "no.

SECTION 5. BALLOT QUESTION NUMBER TWO. The form of the ballot for the *Charter* amendment provided for in Section 4 of this Ordinance shall be as follows:

Mayor/City Council; Date Of Organizational Meeting.

An amendment to the *Webster City Charter* is proposed to provide that the date of the organizational meeting of the City Council after an election shall be the first regularly scheduled City Council meeting in January after an election. Do you favor the amendment?

Yes [ ]

No [ ]

SECTION 6. PROPOSED REVISION OF 7 (1); TERMS OF OFFICE; *CHARTER OF THE CITY OF WEBSTER*. Section 7 (1) of the *Charter of the City of Webster, Florida*, is proposed to be amended to read as follows:

Section 7. Terms of office.—

(1) The term of office for the mayor and each City Council member is 4 years. ~~Consecutive terms are limited to two full 4-year terms with a minimum of a 1-year period of time out of office before being allowed to run for the City Council subsequently.~~

(2) - (4)) . . . . [Unchanged].

SECTION 7. BALLOT QUESTION NUMBER THREE. The form of the ballot for the *Charter* amendment provided for in Section 6 of this Ordinance shall be as follows:

Mayor/City Council; Terms Of Office.

An amendment to the *Webster City Charter* is proposed to eliminate the terms limits set forth in the *Charter*. Do you favor the amendment?

Yes [ ]

No [ ]

SECTION 8. SPECIAL ELECTION.

(a). A special election is hereby called to be held on July 23, 2019, by special

election in accordance with controlling State law, to present to the electors of the City of Webster the ballot questions provided for in this Ordinance.

(b). The Supervisor of Elections of Sumter County is hereby requested to coordinate all matters relating to the said special election with the City Clerk, the Division of Elections of the Florida Department of State, and the City Manager, City Clerk and City Attorney.

SECTION 9. DUTIES OF CITY CLERK.

The City Clerk is hereby directed to ensure that the advertising and notice requirements of Section 100.342, *Florida Statutes*,2 are complied with and to coordinate all activities necessary to conduct the special election called in this Ordinance with the Supervisor of Elections for Sumter County.

SECTION 10. IMPLEMENTING ADMINISTRATIVE ACTIONS.

(a). The City Manager is hereby authorized and directed to implement the provisions of this Ordinance as may be deemed necessary or appropriate by the City Manager.

(b). The City Manager and City Attorney are also hereby authorized and directed to generally implement the provisions of this Ordinance and to take any and all necessary administrative actions to bring into effect the provisions of this Ordinance in accordance with controlling law as such officers may deem appropriate in their respective roles and functions under the *City of Webster City Charter*.

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2 *100.342 Notice of special election or referendum.*— In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality, the notice shall be posted in no less than five places

SECTION 11. REVISED *CHARTER OF THE CITY OF WEBSTER.*

(a). If the proposed amendments to the *Charter of the City of Webster* are approved by the electorate in the special election called for in this Ordinance, it is the intention of the City Council, and it is hereby ordained, that the approved provisions of this Ordinance shall become and be made a part of the *Charter of the City of Webster*.\

(b). The City's Code codifier is granted broad and liberal power and authority to codify the *Charter of the City of Webster* in terms of making appropriate harmonizing, technical or editorial changes and notes that do not affect the substantive provisions thereof.

SECTION 12. SAVINGS.

The prior actions of the City of Webster relating to the enactment of the *City Charter*, and any and all related matters, are hereby ratified and affirmed.

SECTION 13. SEVERABILITY; SCRIVENER'S ERRORS.

(a). 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.

(b). Typographical errors and other matters of a similar nature that do not affect the intent of this Ordinance, as determined by the City Clerk and City Attorney, may be corrected with the endorsement of the City Manager, or designee, without the need for a public hearing.

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within the territorial limits of the county, district, or municipality.

SECTION 14. CONFLICTS.

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 15. EFFECTIVE DATE.

The provisions of this Ordinance shall take effect immediately upon enactment. The amendments to the *Charter of the City of Webster* proposed for approval in this Ordinance shall become effective only upon approval at a special election of the electors of the City of Webster in accordance with the provisions of Section 166.031, *Florida Statutes.*

PASSED AND ENACTED this 29th day of May, 2019.

CITY COUNCIL OF THE CITY OF WEBSTER, FLORIDA

Michael Foote, Acting Mayor

ATTEST:

Barbara Kane
City Clerk

Approved as to form and Legality:

William L. Colbert
City Attorney