

CITY OF APALACHICOLA EMERGENCY ORDINANCE NO. 2019-07

AN ORDINANCE BY THE CITY COMMISSSION OF THE CITY OF APALACHICOLA, FLORIDA AMENDING ORDINANCE NO. 91-4 AND TO THE EXTENT NECESSARY THE CHARTER OF THE CITY OF APALACHICOLA; ARTICLE II SECTION 9; AND CITY OF APALACHICOLA CODE CHAPTER 9 ELECTIONS TO PROVIDE FOR AND CONFIRM THE AUTHORITY OF THE CITY OF APALACHICOLA TO CHANGE THE RUN OFF ELECTION DATE FROM THE THIRD TUESDAY AFTER THE THIRD MONDAY IN SEPTEMBER TO THE NEXT EARLIEST DATE THAT WILL ALLOW FOR ABSENTEE VOTING AND EARLY VOTING FOR THOSE ENTITLED TO VOTE IN CITY ELECTIONS AND TO EXTEND AND SET THE RUNOFF ELECTION OF 2019 TO OCTOBER 1, 2019 FOR THAT PURPOSE.

WHEREAS, the City of Apalachicola City Commission recognizes and desires to honor and facilitate the right of its properly registered voters to vote by absentee ballot and by early voting in all City of Apalachicola elections; and

WHEREAS, the timing of certain Charter, Code and Ordinance provisions do not, in current circumstances, enable absentee voting in a runoff election within the City or properly allow for sufficient early voting time; and

WHEREAS, in the 2019 City election there are two runoff elections required and the City Commission will not disenfranchise the historic right of Apalachicola qualified voters to vote by absentee ballot or to have sufficient time for early voting; and

WHEREAS, the voting needs of the elderly and disabled as well as those serving in the United States Armed Forces overseas or outside of the City of Apalachicola area as well as other numerous qualified voters will be enabled to cast their votes in City elections by virtue of this change; and

WHEREAS, the City Commission of the City of Apalachicola in March of 2019 raised the issue of aligning its election date with the federal, state and county elections for efficiency and uniformity that would permit absentee ballots and early voting but the same was not acceptable to the people of Apalachicola and therefore was not enacted; and

WHEREAS, the Florida Statutes and Laws of the State of Florida as well as precedent and provision in the City regulations provide for the City to enact this Ordinance to provide an extended date for the holding of the City of Apalachicola municipal elections to allow for absentee voting and early voting.

WHEREAS, the 2019 municipal runoff election is desired to be extended for the above reasons to the earliest date that will allow absentee ballot voting and sufficient early voting

which has been determined to be October 1, 2019 with September 21 – September 28 being the early voting period and absentee ballots entitled to be requested from September 11, 2019 to September 21 which is the last date for requiring an absentee ballot from the Elections Department acting on behalf of the City, AND the last day that qualified voters shall have to have their absentee ballot returned to and received by the City Elections Office to be considered for this runoff election is October 1, 2019 by 7:00 P.M. E.D.T.;

NOW THEREFORE BE IT ENACTED by the people of the City of Apalachicola as an Emergency Ordinance:

1. Ordinance No. 91-4 is amended in the “Election Date” paragraph as follows in the underlined portion and all of the remainder of the “Election Date” paragraph shall be unchanged: The regular election of the City of Apalachicola shall be held on the third Tuesday after the third Monday in September of each odd numbered year but if there is necessary a run off election it shall be held at the earliest date that will allow absentee voting for that runoff election as well as sufficient time for early voting for that runoff election. For the year 2019, the runoff election is extended to and set as October 1, 2019 with September 21 – September 28 being the early voting period and absentee ballots entitled to be requested from September 11, 2019 to September 21 which is the last date for requiring an absentee ballot from the Elections Department acting on behalf of the City, AND the last day that qualified voters shall have to have their absentee ballot returned to and received by the City Elections Office to be considered for this runoff election is October 1, 2019 by 7:00 P.M. E.D.T.;
  
2. Article II, Section 9 is amended as follows by the underlined portion set forth below:  
A City Commission is created . . . . . If a candidate for election or an office shall receive a majority of the votes cast for all candidates for the office, or if he shall have no opposition at the first election (he/she) shall be declared elected to such office. If no election occurs as hereinbefore provided, a second election (run off election) shall be held on the third Tuesday after the first Monday in September of such year for the purpose of having elected an officer for each and every election office to be filled, provided that if the timing of that election is not such that it will allow for absentee ballots to be counted or sufficient time for early voting to be conducted, the City shall have the right and authority to extend the date of the runoff election to the next earliest date to enable both absentee voting and early voting and provided that for the year 2019, the runoff election is extended to and set as October 1, 2019 with September 21 – September 28 being the early voting period and absentee ballots entitled to be requested from September 11, 2019 to September 21 which is the last date for requiring an absentee ballot from the Elections Department acting on behalf of the City, AND the last day that qualified voters shall have to have their absentee ballot returned to and received by the City Elections Office to be considered for this runoff election is October 1, 2019 by 7:00 P.M. E.D.T.; and further provided that

there shall be printed upon the ballot for the second election only the names of the candidates for each office who shall . . .

3. Apalachicola City Code Section 9-8 is amended in underlined portion set forth below:
  - a. The general election . . .
  - b. A first election . . .
  - c. If no election occurs as hereinbefore provided, where no one in the City Commission Group, or in any City Commission group, received a majority of all the votes cast in that group, a second election a runoff election shall be held on the third Tuesday after the first Monday in September of such year for the purpose of having elected an officer for each elective office to be filled, provided that if the timing of that election is not such that it will allow for absentee ballots to be counted or sufficient time for early voting to be conducted, the City shall have the right and authority to extend the date of the runoff election to the next earliest date to enable both absentee voting and early voting and provided that for the year 2019, , the runoff election is extended to and set as October 1, 2019 with September 21 – September 28 being the early voting period and absentee ballots entitled to be requested from September 11, 2019 to September 21 which is the last date for requiring an absentee ballot from the Elections Department acting on behalf of the City, AND the last day that qualified voters shall have to have their absentee ballot returned to and received by the City Elections Office to be considered for this runoff election is October 1, 2019 by 7:00 P.M. E.D.T.; and further provided that there shall be printed upon the ballot for the second election only the names of the candidates for each office who shall . . .
4. All parts of the Charter, Ordinances or Code in conflict herewith are hereby repealed.
5. This Ordinance is an emergency Ordinance and is authorized for emergency consideration for approval in order to enable and preserve the rights of qualified voters in the City of Apalachicola to vote by absentee ballot and early vote in the 2019 City election runoff and hereafter. It is found and determined by the City that such emergency procedure and ordinance is necessary as the time necessary to enact this Ordinance and put in place the extension of the runoff election to October 1, 2019 to permit the absentee and early voting for that election cannot be delayed for timing purposes any farther than September 12, 2019 when this Ordinance is scheduled for adoption. The Ordinance shall be posted at City Hall and the City website.
6. This Ordinance shall take effect immediately upon its passage as an emergency Ordinance by the City of Apalachicola City Commission.

7. Severability. If any section, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

This Ordinance was first read in open session on the \_\_\_\_ day of \_\_\_\_\_, 2019. This Ordinance was read for the second time and fully adopted in open session on the \_\_\_\_ day of \_\_\_\_\_, 2019. The final adoption and motion was made by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_.

Voting Aye:

Voting Nay:

FOR THE CITY COMMISSION OF THE  
CITY OF APALACHICOLA

ATTEST:

\_\_\_\_\_  
Deborah Guillotte, City Clerk

\_\_\_\_\_  
Van W. Johnson, Sr., Mayor