

**ORDINANCE 2014-09**

**AN ORDINANCE OF THE CITY OF WAUCHULA, FLORIDA, PROVIDING FOR THE DATES FOR THE PRIMARY AND THE RUN-OFF ELECTIONS FOR THOSE CERTAIN COMMISSION DISTRICT SEATS TO BE FILLED BY ELECTION TO COINCIDE WITH THE FLORIDA PRIMARY AND GENERAL ELECTION DATES; PROVIDING FOR THE PERIOD OF TIME FOR CANDIDATES TO QUALIFY; PROVIDING FOR THE COMMISSION DISTRICT SEATS TO BE ELECTED; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Amended City Charter of 2004 (the "Charter") of the City of Wauchula, Florida, (the "City") contains conflicting language concerning the manner in which the City Commission (the "Commission") of the City establishes the election dates and the qualifying dates in that Sections 5.01(A) and 5.01(B) provide that said dates shall be established by ordinance, and Section 5.01(C) provides that said dates may be established by resolution; and

**WHEREAS**, the imperative word "shall" prevails over the permissive word "may"; and

**WHEREAS**, the year 2014 is a year in which federal, state and county elections are held; and

**WHEREAS**, in the exercise of its authority, the Commission has determined that it is in the best interest of the public health, safety and general welfare of the City and its residents to establish the dates for elections for the office of the City Commission to coincide with the regular federal, state and county elections.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WAUCHULA, FLORIDA THAT:**

**Section 1.** The provisions set forth in the recitals to this Ordinance (whereas clauses) are hereby adopted by the Commission as the legislative findings and intent pertaining to this Ordinance.

**Section 2.** The election for the office of City Commissioner for Commission District Seat 1, Commission District Seat 2, Commissioner District Seat 4, and Commission District Seat 6, shall be held to coincide with the national, state and county primary elections scheduled to be held August 14, 2012, between the hours of 7:00 a.m. and 7:00 p.m. at the polling sites established by the Hardee County Supervisor of Elections for electors of the City of Wauchula, Florida.

**Section 3.** As provided by Section 5.01(A) of the Charter, two (2) or more

candidates must become qualified for one or more positions on the Commission to be filled in order to require an election for such position or positions.

**Section 4.** As provided by Section 5.01(A) of the Charter, if no candidate receives a clear majority of all votes cast for any such position, the two (2) candidates for each place to be filled who received the highest number of votes in the primary election shall be certified as the candidates in a run-off election.

**Section 5.** If a run-off election is required, it shall be held to coincide with the general federal, state and county elections scheduled to be held on November 4, 2014, between the hours of 7:00 a.m. and 7:00 p.m. at the polling sites established by the Hardee County Supervisor of Elections for electors of the City of Wauchula, Florida.

**Section 6.** All candidates for any of the above described Commission District Seats shall qualify between 12:00 p.m. (noon), on Monday, June 16, 2014, and 12:00 p.m. (noon), Friday, June 20, 2014, in person at the office of the City Clerk, 126 South 7th Avenue, Wauchula, FL 33873.

**Section 7.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 8.** If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision and such holding shall not affect the validity of any other provision, and to that end the provision of this ordinance are hereby declared severable.

**Section 9.** This Ordinance shall be effective upon its adoption.

INTRODUCED and PASSED on first reading in regular session of the City Commission of the City of Wauchula, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**ATTEST:**

**CITY OF WAUCHULA, FLORIDA**

\_\_\_\_\_  
Holly Smith, City Clerk

\_\_\_\_\_  
Richard Keith Nadaskay, Jr., Mayor

PASSED on second and final reading by the City Commission of the City of Wauchula, Florida, at regular session this \_\_\_\_\_ day of \_\_\_\_\_ 2014. This ordinance was moved for approval by Commissioner\_\_\_\_\_. The motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

Commissioner Neda Cobb	_____ insert yes or no
Commissioner John D. Freeman	_____ insert yes or no
Commissioner Kenneth Lambert	_____ insert yes or no
Commissioner Richard Keith Nadaskay, Jr.	_____ insert yes or no
Commissioner Peter Preston	_____ insert yes or no
Commissioner Gary D. Smith	_____ insert yes or no
Commissioner Russell Graylin Smith	_____ insert yes or no

(SEAL)

**ATTEST:**

**CITY OF WAUCHULA, FLORIDA**

\_\_\_\_\_  
Holly Smith, City Clerk

\_\_\_\_\_  
Richard Keith Nadaskay, Jr., Mayor

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Thomas A. Cloud, City Attorney