

MEMORANDUM

TO: Mayor and Town Council

CC: Town Manager
Town Clerk

FROM: Steven D. Briglia, Town Attorney

RE: Mandatory Change to November Elections

DATE: October 11, 2021

Pursuant to Virginia Code amendments recently passed by the General Assembly, all local elections will be required to be held at the same time as the November General Elections. Accordingly, and notwithstanding any local charter, localities that currently hold their elections in May will have to amend their local ordinances to reflect a November election cycle. **No terms of elected officials will be shortened, but they will be extended.** Set forth below is a legal and statutory discussion and summary of what minimum Town Code Amendments the Town of Vienna will need to adopt. Since no terms of Town Council were set to expire until June 2022, we have time to discuss and adopt the required Town Code Amendments. However, should the Town Council wish to make additional amendments to its election cycles and terms, ie. four (4) terms or non-staggered terms, etc., a Town Charter amendment will be required and that would need to be submitted to the General Assembly for approval. There is currently a Town Council Conference Session scheduled for September 18th to give the Town Council an opportunity to discuss as a group and begin to consider its options.

Under the prior Town of Vienna election terms/election dates, the following terms were in effect:

Elected May 2020/Term July 1, 2020 to June 30, 2022

Mayor Linda Colbert
CM Chuck Anderson
CM Ray Brill
CM Ed Somers

Elected May 2021/Term July 1, 2021 to June 30, 2023

CM Nisha Patel
CM Steve Potter
CM Howard Springsteen

Under the required November General Election requirement, terms of elected councilmembers are extended:

Elected May 2022/Term July 1, 2020 to **December 31, 2022**

Mayor Linda Colbert
CM Chuck Anderson
CM Ray Brill
CM Ed Somers

New terms for the Mayor and Town Council currently elected for these terms would be determined in the following election cycles:

November 2022
November 2024
November 2026

Elected May 2021/Term July 1, 2021 to **December 31, 2023**

CM Nisha Patel
CM Steve Potter
CM Howard Springsteen

New terms for the Mayor and Town Council currently elected for these terms would be determined in the following election cycles:

November 2023
November 2025
November 2027

Other Considerations:

Virginia Governor Election – November 2021, November 2025, November 2029

U.S. Presidential Election – November 2024, November 2028, November 2032

Fairfax County Board of Supervisors Election – November 2023, November 2027, November 2031

Virginia Code changes regarding local elections, November requirement

1. That § 15.2-1400 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-1400. Governing bodies.

A. The qualified voters of every locality shall elect a governing body for such locality. The date, place, number, term, and other details of the election shall be as specified by

law, general or special. Qualification for office is provided in Article 4 (§ 15.2-1522 et seq.) of Chapter 15.

B. The governing body of every locality shall be composed of not fewer than three nor more than eleven 11 members.

C. Chairmen, mayors, supervisors, and councilmen are subject to the prohibitions set forth in §§ 15.2-1534 and 15.2-1535.

D. A governing body may punish or fine a member of the governing body for disorderly behavior.

E. Notwithstanding the provisions of §§ 24.2-222 and 24.2-222.1, any city or town charter, or any other provision of law, general or special, beginning with any election held after January 1, 2022, elections for mayor, members of a local governing body, or members of an elected school board shall be held at the time of the November general election for terms to commence January 1.

2. That any city or town currently providing for the election of its mayor, governing body, or school board at a May election shall, by ordinance, provide for the transition of such elections to the November general election date. No term of a mayor, a member of council, or a member of a school board shall be shortened in implementing the change to the November election date. Mayors and members of a council or school board who were elected at a May general election and whose terms are to expire as of June 30 shall continue in office until their successors have been elected at the November general election and have been qualified to serve.

Current Town Charter and Town Code Sections regarding Elections

Town Charter Provisions (15.2-1400 requires the Town, by ordinance, to set its elections to a November general election date)

Town Charter Sec. 3.1. Election of Mayor and Councilmen; composition of Town Council; terms of office of office of Mayor and Councilmen.

The Town of Vienna shall be governed by Town Council composed of a Mayor and six Councilmen who shall be qualified electors of the Town and who shall be elected in the following manner:

(a) In the Town election to be held on the first Tuesday in May, nineteen hundred seventy-one, three Councilmen shall be elected for a term of one year and ten months, said term to begin on the first day of September, nineteen hundred seventy-one, and expire on the last day of June, nineteen hundred seventy-three.

(b) In the Town elections to be held the first Tuesday in May, nineteen hundred seventy-two, there shall be elected a Mayor and three Councilmen, all of whom shall serve for a term of two years, such term to begin on the first day of July, nineteen hundred seventy-two, and expire on the last day of June, nineteen hundred seventy-four.

(c) Beginning with the Town election held in nineteen hundred seventy-two, the term of office for both the Mayor and all Councilmen shall be two years and shall begin on the first day of July next following his or their elections.

(Acts of 1971)

Town Charter Sec. 3.4. Conduct of municipal elections.

Elections in the Town of Vienna shall be conducted pursuant to, and in accord with all applicable provisions of Title 24.2 of the Code of Virginia, except insofar as same are amended by subsections (a) and (b) of this section of the Charter.

(a) The Mayor shall issue to those elected certificates of election which shall be countersigned by the Town Clerk. Tie votes shall be decided by lot, and contests shall be tried and finally determined by a majority vote of all members of Council in office and serving at the time the contested election is held, provided that any member or members of the Council who are parties to any such contest shall not participate in the trial of or vote in the determination of the contest to which they are parties.

(b) Candidates for Town offices shall not be identified on the ballot by political affiliation.

(Acts of 1966, ch. 113; Acts of 1968, ch. 68; Acts of 1973; Acts of 2002, ch. 594)

Minimum Town Code amendments necessary to conform with state November election mandate (new Town Code language is in bold and italics, italics language is taken from the Town Charter):

PROPOSED NEW TOWN CODE SECTION WITH REVISED CHARTER LANGUAGE (AS AMENDED)

Chapter 2, Article 8. Election of Mayor and Councilmen; composition of Town Council; terms of office of Mayor and Councilmen.

In accordance with the Town Charter, the Town of Vienna shall be governed by Town Council composed of a Mayor and six Councilmembers who shall be qualified electors of the Town and who shall be elected in the following manner:

Sec. 2-73

In accordance with Virginia Code §15.2-1400 which states notwithstanding the provisions of §§ 24.2-222 and 24.2-222.1, any town charter:

(a) ~~In the Town elections to be held on the first Tuesday in~~ ***at the time of the November general election for terms to commence on January 1.*** ~~May, nineteen hundred seventy one, three Councilmen shall be elected for a term of one year and ten months, said term to begin on the first day of September, nineteen hundred seventy one, and expire on the last day of June, nineteen hundred seventy three.~~

(b) In the Town elections ***previously*** to be held the first Tuesday in May ***2022***, ~~nineteen hundred seventy two~~, there shall be elected ~~a~~ ***at the November 2022 general election*** Mayor and three ~~Councilmen~~ ***Councilmembers***, all of whom shall serve for a term of two years, such term to begin on the first day of ***January 2023*** ~~July, nineteen hundred seventy two~~, and expire on the last day of ***December 2024*** ~~June, nineteen hundred seventy four~~.

(c) Beginning with the Town election ***previously*** held in May ***2023*** ~~nineteen hundred seventy two~~, the term of office for ~~both the Mayor and all Councilmen~~ ***Councilmembers*** shall be two years and shall begin on the first day of ***December 2025*** ~~July next following his or their elections~~.

(d) ***In accordance with Virginia Code §15.2-1400, any Mayor or Councilmembers whose term at the time of their election was previously set to expire in May, shall be extended six (6) months.***