

ORDINANCE NO. 25-03

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA AMENDING SECTION 18-23 OF ARTICLE II OF CHAPTER 18 OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, FLORIDA REGARDING ELECTIONS TO CHANGE THE DATE AND YEAR FOR THE ELECTION OF THE MAYOR AND TOWN COMMISSIONERS TO THE FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER IN ODD-NUMBERED YEARS COMMENCING IN NOVEMBER, 2027 AND ALLOWING FOR EXTENSION IN TERMS OF THE MAYOR AND TOWN COMMISSIONERS IN OFFICE AT THE TIME OF THE ADOPTION OF THIS ORDINANCE AS A RESULT OF THE CHANGE IN THE DATE AND YEAR OF REGULAR MUNICIPAL ELECTIONS WITHIN THE TOWN OF DUNDEE; ESTABLISHING THE 2027 ELECTION DATE AND ELECTION DATES THEREAFTER FOR THE TOWN OF DUNDEE REGULAR MUNICIPAL ELECTIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING BUSINESS IMPACT ESTIMATE; AND PROVIDING FOR AN EFFECTIVE DATE UPON FINAL PASSAGE.

WHEREAS, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, as provided in *Section 166.021(3), Florida Statutes (2024)*, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the Polk County Supervisor of Elections has proposed and/or offered the opportunity for all municipal elections within Polk County, Florida, to be held on the first Tuesday after the first Monday in November of odd-numbered years; and

WHEREAS, the first Tuesday after the first Monday in November has traditionally been associated with elections at the State and National levels; and

WHEREAS, four (4) municipalities within Polk County, Florida, two (2) of which are the largest municipalities within Polk County, Florida, already conduct and hold their regular municipal elections on the first Tuesday after the first Monday in November of odd-numbered years; and

WHEREAS, on February 11, 2025, the Town Commission of the Town of Dundee, Florida (the "Town Commission") passed and adopted *Town of Dundee Ordinance No. 25-01* in order to harmonize *Section 18-1 of the Code of Ordinances of the Town of Dundee, Florida*, with the Town's general and ordinary election practices by determining and setting the dates for the qualification period for filing petitions and a written notice of candidacy with the designated official, by reserving the ability to determine and set the dates for the qualification period for a special election by further resolution or ordinance, by requiring that any filing fee or statutory election assessment be collected by the Town Clerk at the time of qualifying, and by permitting the Town Clerk to hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period; and

WHEREAS, the Town Commission has determined that it desires for the Supervisor of Elections to handle all of its elections and has further determined that its elections can conveniently be held in November of every odd-numbered year which allows the Town to potentially conserve costs and encourages a larger voter turnout; and

WHEREAS, on April 10, 1994, the Florida Attorney General issued *Attorney General Opinion 94-31* concluding that a municipal corporation could not amend its charter by ordinance to provide for a change in the date on which municipal elections would occur and, as a result of same, extend the terms of the sitting officers affected by the change; and

WHEREAS, in or about 1995, in response to *Florida Attorney General Advisory Legal Opinion 94-31*, the Florida Legislature introduced *Chapter 95-178, Laws of Florida*, which amended *Section 166.021 of the Florida Statutes* to provide, in pertinent part, as follows:

[N]othing in this act shall be construed to permit any changes in a special law or municipal charter which affect . . . the terms of elected officers and the manner of their election ***except for the selection of election dates and qualifying periods for candidates and for changes in terms of***

office necessitated by such changes in election dates, . . . without approval by referendum of the electors as provided in s. 166.031....

WHEREAS, *Chapter 95-178, Laws of Florida*, also created *Section 100.3605 of the Florida Statutes* which provides, in pertinent part, as follows:

The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes.

WHEREAS, *Florida Attorney General Advisory Legal Opinion(s) 2000-61 and 2003-52* interpret *Section 100.3605(2), Florida Statutes*, and conclude that the legislative intent of this statutory provision indicates that municipalities are authorized to amend their Charters and/or Code of Ordinances to change the election dates and qualifying periods for candidates, including any changes in terms of office necessitated by such amendment, without a referendum; and

WHEREAS, *Section 100.3605(2), Florida Statutes (2025)*, allows the governing body of a municipality **by ordinance** to change the dates for qualifying and for the election of members of the governing body of the municipality; and

WHEREAS, for purposes of this **Ordinance No. 25-03**, the Town Commission has determined that the said change of date of and/or for the Town of Dundee's elections necessitates a change in the dates for seating of newly-elected commissioners and an extension of the terms for the Mayor and Town Commissioners in office at the time this **Ordinance No. 25-03** is passed and duly adopted; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this **Ordinance No. 25-03** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest; and this **Ordinance No. 25-03** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE TOWN OF DUNDEE, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this **Ordinance No. 25-03**, and the Town Commission of the Town of Dundee, Florida (the "Town Commission"), hereby adopts the above-

referenced factual recitals as the legislative findings supporting the adoption of this **Ordinance No. 25-03**.

Section 2. Amendments to the Code of Ordinances of the Town of Dundee.

The *Code of Ordinances of the Town of Dundee, Florida* (the "Town Code") is amended as set forth in **Exhibit "A"**, a copy of which is attached hereto and incorporated herein, to amend *Chapter 18 of the Town Code* in order to effectuate the change in and/or for the date of the Town's regular municipal elections, extending term(s) of seated Town elected officials which is necessitated by such change in the election date, and other minor editorial revision(s) to in order to reflect current and applicable code provisions.

The terms of the Mayor and all Town Commissioners serving on the effective date of this **Ordinance No. 25-03**, are hereby extended to the dates their successors are elected and seated according to the provisions hereof as necessitated by the change in the Town of Dundee municipal election date to the first Tuesday after the first Monday in November 2027, as provided for herein.

Section 3. Conflicts.

All ordinances or parts of ordinances in conflict with any of the provisions of this **Ordinance No. 23-05** are hereby repealed to the extent necessary to give this **Ordinance No. 25-03** full force and effect.

Section 4. Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission of the Town of Dundee, Florida, that sections of this **Ordinance No. 25-03** may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the *Code of Ordinances of the Town of Dundee, Florida*, is accomplished, sections of this **Ordinance No. 25-03** may be renumbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 5. Codification.

It is the intent of the Town Commission that the provisions of **Exhibit 'A'** to this Ordinance shall be codified as and become and be made a part of the *Code of Ordinances of the Town of Dundee, Florida*. The new provisions in **Exhibit "A"** attached to of this **Ordinance No. 25-03** may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word. The implementing sections of this **Ordinance No. 25-03**, Sections 1,

2, 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this **Ordinance No. 25-03**.

Section 6. Severability.

The provisions of this **Ordinance No. 23-05** are severable. If any section, subsection, sentence, clause, phrase of this **Ordinance No. 23-05**, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee, Florida, hereby declares that it would have passed this **Ordinance No. 23-05**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional. If any word, sentence, clause, phrase, or provision of this **Ordinance No. 23-05** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this **Ordinance No. 23-05** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Ordinance No. 23-05** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Ordinance No. 23-05**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Ordinance No. 23-05**, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 7. Business Impact Estimate.

On October 1, 2023, Senate Bill 170 ("SB 170"), *Chapter 2023-309, Laws of Florida*, was enacted amending Section 166.041, Florida Statutes, requiring a local government to prepare a *business impact estimate* before the enactment of an ordinance.

On October 1, 2024, Senate Bill 1628 ("SB 1628"), as codified under *Chapter 2024-145, Laws of Florida*, was enacted and further amends Section 166.041(4), Florida Statutes, by amending the applicable exemptions from the *business impact estimate* requirement(s).

In this instance, this **Ordinance No. 25-03** is enacted and necessary to maintain consistency with *Chapters 97-106, Florida Statutes*, which is titled and known as the *Florida Election Code*. As such, pursuant to Section 166.041(4)(c)1, Florida Statutes (2024), **Ordinance No. 25-03** is an ordinance required for compliance with federal or state law or regulation and does not require a *business impact estimate*.

Section 8. Effective Date.

This **Ordinance No. 25-03** shall become effective immediately upon its passage and adoption.

INTRODUCED AND PASSED, on First Reading with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 28th day of October, 2025.

PASSED AND DULY ADOPTED, on Second Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 18th day of November, 2025.

TOWN OF DUNDEE, FLORIDA

Mayor – Sam Pennant

Attest:

Town Clerk – Erica Anderson

Approved as to form:

Town Attorney – Frederick J. Murphy, Jr.