

ORDINANCE NO. 2020-02

AN ORDINANCE ORDERING A REFERENDUM TO BE HELD ON THE QUESTION OF DECREASING THE NUMBER OF TOWN COUNCIL MEMBERS; PROVIDING FOR THE FORM OF THE BALLOT TO BE USED; PROVIDING FOR NOTICE OF THE REFERENDUM; AND PROVIDING FOR OTHER MATTERS RELATING THERETO.

The Town Council of the Town of Varnville (the "*Town Council*"), the governing body of Town of Varnville, South Carolina (the "*Town*"), makes the following findings of fact in connection with the enactment of this ordinance (this "*Ordinance*"):

(A) The Town is a municipal corporation of the State of South Carolina (the "*State*") operating under the council form of government, and its Town Council is required pursuant to Section 5-11-20(a) of the Code of Laws of South Carolina 1976, as amended, to be comprised of either five, seven, or nine council members, including the mayor. The Town Council currently has seven council members.

(B) Section 5-15-30 of the Code of Laws of South Carolina 1976, as amended, provides that the Town may reduce the size of the Town Council by passing an ordinance requesting the Hampton County Board of Voter Registration and Elections (the "*Hampton County Election Commission*") and the Varnville Municipal Election Commission (the "*Varnville Election Commission*") (collectively, the "*Election Commission*") to hold a referendum in the Town to propose a reduction in the number of council members.

(C) The Town Council seeks to reduce the size of Town Council from seven members to five because the Town's declining population results in fewer eligible candidates willing to run for office and it is good fiscal practice which will help reduce expenses and maintain low taxes.

(D) Pursuant to Section 5-15-30 of the Code of Laws of South Carolina 1976, as amended, the reduction in Town Council members will be subject to the results of a successful referendum to be held in the Town and would become effective at the next general election after the referendum.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF VARNVILLE AS FOLLOWS:

Section 1. *Order to Hold Referendum.* Pursuant to the applicable provisions of the Constitution and laws of the State of South Carolina, there is hereby ordered a referendum to be held in the Town on November 3, 2020 (the "*Referendum*"). On the date of the Referendum, there shall be submitted to all persons residing in the Town and qualified to vote under the Constitution and laws of the State of South Carolina the question of whether the number of members of Town Council shall be reduced from seven to five. Assuming the Referendum is successful, it shall become effective as of the Town's next general election, which currently scheduled for April 2022.

Section 2. *Voting, Polling Places, and Hours of Election.* The Referendum shall be conducted by the Election Commission. The polls shall be opened at 7:00 a.m. and closed at 7:00 p.m. on the date of the Referendum and voting shall be held during said hours without intermission or adjournment. The voting precincts and polling places for each of such precincts shall be such precincts and polling places as established by law wholly or partially within the Town.

Section 3. *Ballot Question.* The Election Commission is requested to conduct the Referendum in accordance with South Carolina law. Subject to the approval of the Hampton County Election Commission, the form of ballot to be used in the Referendum and the instructions to voters appearing thereon shall be in substantially the form set forth at Appendix A attached hereto, with such other changes as may be deemed necessary by the Town Council upon consultation with the executive director of the Hampton County Election Commission.

Section 4. *Voter Qualification.* Every person offering to vote must be at least 18 years of age on the date of the Referendum, must reside in the Town, and must be duly registered on the books of registration for the County as an elector in the precinct in which he or she resides and offers to vote on or before the date on which said books of registration are closed for the Referendum, and must present either a South Carolina driver's license, another form of identification containing a photograph issued by the Department of Motor Vehicles, a passport, a military identification card containing a photograph issued by the federal government, or a South Carolina voter registration card containing a photograph of the voter pursuant to Section 7-5-675 of the Code of Laws of South Carolina 1976, as amended. If a voter cannot produce any type of the aforementioned identification at his or her designated precinct, the voter may cast a provisional ballot that is counted only if the voter brings a valid and current photograph identification to the Hampton County Election Commission, 201 Jackson Avenue West, Hampton, SC 29924, before the results of the election are certified.

Any registered elector who meets the requirements set forth in the preceding sentences and who has moved his or her place of residence within the Town after the date on which said books of registration are closed for the Referendum, but before the date of the Referendum, shall be entitled to vote in his or her previous precinct of residence in the Referendum.

Absentee ballots for the Referendum shall be available at the office of the Hampton County Election Commission. The books of registration shall be closed thirty (30) days prior to the Referendum.

Section 5. *Notice of Referendum.* A notice of the Referendum (the "*Notice*"), substantially in the form set forth in Appendix B attached hereto, shall be published in compliance with the provisions of Section 7-13-35 of the Code of Laws of South Carolina 1976, as amended. The Mayor shall be authorized to make such modifications or changes to the Notice as he shall deem necessary and the published version thereof shall constitute conclusive evidence of such approval.

The Varnville Election Commission is authorized to change any of the locations of polling places for the Referendum in accordance with State law as deemed necessary or advisable. In the event of such change, appropriate changes are to be made to the Notice.

Section 6. *Registration and the Election Commission.* A certified copy of this Ordinance shall be presented to the Varnville Election Commission, and it is hereby requested to perform the following:

- (a) to join in the action of the Town in providing for the Notice and the ballot in substantially the form contained herein;
- (b) to arrange for polling places for each precinct, or any part of a precinct within the Town;
- (c) to appoint Managers of Election;
- (d) to conduct the Referendum, receive the returns thereof, canvass such returns, declare the results thereof, and certify such results; and
- (e) take other steps and prepare such other means as shall be necessary or required by law in order to properly conduct the Referendum.

Furthermore, a certified copy of this Ordinance shall be presented to the Hampton County Election Commission, and it is hereby requested to perform the following:

- (a) to prescribe the form of ballot to be used in the Referendum;
- (b) to provide a sufficient number of ballots or voting machines, as the case may be, for the Referendum; and
- (c) take other steps and prepare such other means as shall be necessary or required by law in order to properly conduct the Referendum.

Section 7. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held or determined to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 8. Nothing in this Ordinance hereby enacted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 9. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict or inconsistency. This Ordinance shall take effect immediately upon its enactment by Town Council.

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DONE AND ENACTED IN COUNCIL ASSEMBLED, this 10th day of August, 2020.

TOWN OF VARNVILLE, SOUTH
CAROLINA

[SEAL]



Nathaniel A. Shaffer, Mayor

ATTEST:



Clerk to Town Council

First Reading July 29, 2020
Second Reading August 10, 2020

**APPENDIX A
FORM OF BALLOT**

OFFICIAL BALLOT FOR REFERENDUM
TOWN COUNCIL MEMBER REDUCTION REFERENDUM
TOWN OF VARNVILLE, SOUTH CAROLINA
November 3, 2020

Precinct____
No._____

Initials of Issuing Officer

OFFICIAL BALLOT FOR REFERENDUM
TOWN COUNCIL MEMBER REDUCTION REFERENDUM
TOWN OF VARNVILLE, SOUTH CAROLINA
November 3, 2020

Question

Shall the Town of Varnville, South Carolina reduce the number of members serving on the Town Council from seven members to five members?

Yes, in favor of the question []

No, opposed to the question []

APPENDIX B
FORM OF NOTICE OF REFERENDUM

NOTICE OF REFERENDUM
TOWN COUNCIL MEMBER REDUCTION REFERENDUM
TOWN OF VARNVILLE, SOUTH CAROLINA

NOTICE IS HEREBY GIVEN that a referendum will be held in the Town of Varnville, South Carolina (the "*Town*"), on November 3, 2020 (the "*Referendum*"), for the purpose of submitting to all persons qualified to vote in the Town pursuant to the Constitution and laws of the State of South Carolina, the following question:

QUESTION

Shall the Town of Varnville, South Carolina reduce the number of members serving on the Town Council from seven members to five members?

Yes, in favor of the question []

No, opposed to the question []

The question is being submitted pursuant to Section 5-15-30 of the Code of Laws of South Carolina 1976, as amended and an ordinance of the Town Council of the Town of Varnville (the "*Town Council*") adopted on August 10, 2020. If a majority of the qualified electors of the Town voting in the Referendum approve the question, the Town shall be authorized to reduce the number of council members effective as of the next general election, which is anticipated to occur in April 2022.

Every person offering to vote must be at least 18 years of age on the date of the Referendum, must reside in the Town, and must be duly registered on the books of registration for Hampton County as an elector in the precinct in which he or she resides and offers to vote on or before the date on which said books of registration are closed for the Referendum, and must present either a South Carolina driver's license, another form of identification containing a photograph issued by the Department of Motor Vehicles, a passport, a military identification card containing a photograph issued by the federal government, or a South Carolina voter registration card containing a photograph of the voter pursuant to Section 7-5-675 of the Code of Laws of South Carolina 1976, as amended. If a voter cannot produce any type of the aforementioned identification at his or her designated precinct, the voter may cast a provisional ballot that is counted only if the voter brings a valid and current photograph identification to the Hampton County Board of Voter Registration and Elections (the "*Hampton County Election Commission*") before the results of the Referendum are certified. Should a duly registered voter have no such form of photo ID, then the voter may vote a provisional ballot under the reasonable impediment rule, sign an affidavit that he/she has no such ID, and vote a provisional ballot; if no challenge is made to his/her ballot, then the ballot will be declared valid, and his/her vote counted.

Any person wishing to register to vote in the Referendum, if registering by mail, must either have such registration postmarked no later than 30 days prior to the Referendum, to the Hampton County Election Commission, 201 Jackson Avenue West, Hampton, SC 29924, or appear in person and register at the same address. In the case of registration with a motor vehicle application, the valid voter registration form must be completed at the Department of Motor Vehicles no later than 30 days prior to the Referendum. Any person who has a valid South Carolina driver's license or state identification card issued by the Department of Motor Vehicles may register to vote online at www.scvotes.org no later than 30 days prior to the Referendum. Any registered elector who has moved his or her place of residence within the Town after the date of the Referendum shall be entitled to vote in his or her previous precinct of residence in the Referendum, as applicable; provided, however, in case any registered elector shall have moved from one precinct in the Town within 30 days prior to November 3, 2020, and shall have surrendered his registration certificate and has received a new certificate, such elector may vote in the precinct provided by such new certificate. The foregoing sentence shall be inapplicable where only one precinct is maintained. Persons who become of age during the 30-day period preceding the Referendum shall be entitled to register before the closing of the books if otherwise qualified.

Any person eligible to register to vote in the Referendum who has been discharged or separated from his service in the Armed Forces of the United States prior to November 3, 2020, and has returned home too late to register at the time when registration is required, is entitled to register for the purpose of voting in the Referendum after the discharge or separation from service, up to 5:00 p.m. on the day of the Referendum. This application for registration must be made at the office of the Hampton County Election Commission, and if qualified, the person must be issued a registration notification stating the precinct in which he is entitled to vote and should be placed on the registration rolls of the precinct.

The polls shall be open from 7:00 a.m. until 7:00 p.m. at the polling places designated below and shall be open during those hours without intermission or adjournment. Appropriate vote recorders will be provided at the polling places for the casting of ballots on the aforesaid question. Managers of Election will be appointed by the Varnville Municipal Election Commission (the "**Varnville Election Commission**"). The location of the polling place for such Referendum is the Varnville Fire Department, 54 Palm Street, Varnville, SC 29944.

Voters who are blind, who are otherwise physically handicapped, or who are unable to read or write are entitled to assistance in casting their ballot. This assistance may be given by anyone the voter chooses except for his employer, an agent of his employer, or an officer or agent of his union. The Managers of Election must be notified if assistance is needed. Voters who are unable to enter their polling place due to physical handicap or age may vote in the vehicle in which they drove, or were driven, to the polls. When notified, such Managers of Election will help voters effectuate this curbside voting provision. Registered voters may be eligible to vote by absentee ballot. Persons wishing more information concerning absentee balloting should contact the Hampton County Election Commission by telephone at (803) 914-2080. The process of examining absentee ballots may begin at 9 a.m. on election day at the place designated in the notice provided by the Hampton County Election Commission with the absentee ballot.

The Hampton County Election Commission and the Varnville Election Commission are cognizant of the COVID-19 pandemic (the “*Pandemic*”) and resulting government-prescribed social distancing and other measures being undertaken to limit the spread of the Pandemic. As a result, certain special measures or protocol related to the Pandemic may be required for the Referendum as necessary to protect the life, health and safety of the Commissions, their staff, the Managers of Election, the voters in the Referendum, and all other affected parties.

After the Referendum, the Varnville Election Commission shall hold a hearing on Friday, November 6, 2020 at 10:00 a.m. on ballots challenged in the election at the Varnville Fire Department, 54 Palm Street, Varnville, SC 29944.