



Office of the
City Attorney

City of Salisbury

North Carolina

TO: Salisbury City Council
FROM: J. Graham Corriher, City Attorney JGC
DATE: March 28, 2023
RE: Election Amendments to City Charter

This memorandum provides information on the authority and procedure to change the election process for the Salisbury City Council. This memorandum is being published to provide information to the public in advance of the three town hall meetings called by City Council to seek public input on charter changes.

What can City Council change?

City Council has limited authority to change the election process. State law (GS 160A-101) sets forth an exclusive list of things City Council can change about the election process. City Council has the legal authority to make the following changes, and none other:

- Stylistic
 - Change the name of Salisbury
 - Change “City of Salisbury” to “Town of Salisbury” or “Village of Salisbury”
 - Change the “Salisbury City Council” to the “Salisbury Board of Alderman” or the “Salisbury Board of Commissioners”
- Structure of Council
 - Term: must be 2 or 4 years (and if 4, can be staggered)
 - Size: must be between 3 and 12
- Mode of election: at large or by district (or a combination)
- Partisan/nonpartisan (and if nonpartisan, a plurality or runoff)
- Method of selecting a mayor
- Form of government (council-manager or mayor-council)

Any other changes would have to be made by act of the North Carolina General Assembly.

How does City Council make these changes?

City Council makes the changes above by ordinance. City Council can, but is not required to, make the ordinance subject to a referendum vote. If City Council decides not to make the ordinance subject to a referendum, there is a process for citizens to petition to force a referendum. The petition must be signed by 5,000 registered voters.

The procedural requirements are as follows:

1. City Council adopts a *Resolution of Intent* that describes the proposed change.
2. City Council holds a public hearing with at least 10 days' published notice.
3. City Council adopts an Ordinance making the change. The Ordinance must be adopted at a meeting that is not more than 60 days after the public hearing and not before the next regular meeting after the public hearing.
4. The change takes effect at the next election that is more than 90 days after the adoption of the Ordinance.¹
5. If City Council elects to make the Ordinance subject to a referendum vote (or if City Council receives a valid petition), the Ordinance is placed on the next election ballot that is more than 70 days after the adoption of the Ordinance.

Once City Council changes the form of government, that particular change must stay in effect for at least 2 years from the beginning of the term of office of the officers elected under the amendment. As an example, in 2019 City Council adopted an ordinance to change the election of Mayor from being selected by and from among City Council to being separately elected by the citizens. That change was made subject to a referendum on the 2019 election ballot. The referendum was approved and went into effect for the 2021 election. Because the Mayor that was elected in the November 2021 election did not begin her term of office until December 2021 (when the Mayor and City Council were sworn in), the separate mayoral election amendment cannot be changed prior to December 2023 (which would effectively be the November 2025 election at the earliest).

¹ It is not clear how this operates with the municipal filing period. There are more than 90 days between the end of the municipal filing period in July and the November elections. It is therefore possible that an ordinance could be adopted after the filing period closes that would affect the November election. It is not clear if the Board of Elections would reopen the filing period. My advice is to ensure that any changes affecting any particular year's election be adopted before the opening of the municipal filing period (in July).