

ORDINANCE 2008-06

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, AMENDING THE TOWN CHARTER SECTION 2.03 CANDIDATE QUALIFYING PERIOD TO CONFORM WITH HOUSE BILL 537, SIGNED INTO LAW MAY 21, 2007 AMENDING FLORIDA STATUTE 100 RELATING TO PRIMARY ELECTIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the current Town of Malabar Charter states that the Malabar candidate qualifying ends sixty-seven (67) days prior to the date of an election; and,

WHEREAS, the State of Florida recently approved House Bill 537 amending Section 100.062 *Florida Statutes*, by changing the date of the primary election from 9 weeks prior to the general election to 10 weeks prior to the general election; and,

WHEREAS, the Brevard County Supervisor of Elections has requested that all candidate and qualifying issues be finalized the Friday before the primary election to allow ample time for the printing and mailing of absentee ballots; and,

WHEREAS, currently Malabar's candidate qualifying begins on a Friday and ends on a Friday; and,

WHEREAS, the Town Council recognizes the need to adjust the candidate qualifying described in Sec. 2.03 of the Town Charter to conform to the provisions of House Bill 537 and the request of Brevard County Supervisor of Elections for an earlier submission of candidate and qualifying issues information; and,

WHEREAS, Florida Statute §100.3065 states that 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; and,

WHEREAS, this language has been interpreted by the Attorney General of Florida as permitting the amendment of the candidate qualifying period provided for in a municipal charter without a referendum by the general electorate (see, AGO 2000-61).

NOW, THEREFORE BE IT ORDAINED BY THE TOWN OF MALABAR OF BREVARD COUNTY, FLORIDA that;

SECTION 1. AMENDMENT.

Section 2.03 of the Malabar Charter is hereby amended to read as follows:

“Section 2.03 Qualifications for Council Seat.

Any qualified elector of the town who has been a resident of the town for at least six (6) months prior to the date of qualification for office may qualify for the council seat by presenting to the town clerk a petition signed by residents of the candidate's district. The petition must be signed

by fifteen (15) valid signatures of the district and by paying a filing fee if required, not less than ~~sixty-seven (67)~~ seventy-six (76) days and not more than ~~eighty-one (81)~~ ninety (90) days prior to the date of such election. The candidates shall submit with the petition a sworn statement containing the candidate's name, address, occupation and willingness to serve if elected. The candidate must have resided in the district for which he/she is qualifying for at least six (6) months."

SECTION 2. CODIFICATION. It is the intention of the Town Council of the Town of Malabar, Brevard County, Florida that the provisions of this Ordinance shall be made a part of the Charter of the Town of Malabar, Florida; and codified into the Municipal Code and any section or paragraph may be renumbered or re-lettered to accomplish such intention.

SECTION 3. SEVERABILITY. In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, such decision shall not affect the validity of the remainder hereto as a whole or part thereof to be declared invalid.

SECTION 4. CONFLICT. All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

SECTION 5. EFFECTIVE DATE. The ordinance shall take effect immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member McClelland. The motion was seconded by Council Member McKnight and, upon being put to a vote, the vote was as follows:

Council Member Nancy Borton	<u>Aye</u>
Council Member Brian Vail	<u>Aye</u>
Council Member Charles (Chuck) McClelland	<u>Aye</u>
Council Member Jeffrey (Jeff) McKnight	<u>Aye</u>
Council Member Patricia (Pat) Dezman	<u>Aye</u>

PASSED AND ADOPTED by the Town Council, Town of Malabar, Brevard County, Florida this 19th day of May, 2008.

BY:

Thomas Eschenberg

Town of Malabar
Mayor Tom Eschenberg

First Reading: 05/05/08
Second Reading: 05/19/08

ATTEST:

Debby K. Franklin
Debby K. Franklin
Town Clerk/Treasurer

Approved as to form and
legal sufficiency by:

Karl Bohne
Karl W. Bohne, Jr.
Town Attorney