

ORDINANCE NO. 2010-33

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY FLORIDA; AMENDING BALLOT QUESTION 1 IN ORDINANCE NUMBER 2008-16; PROVIDING FOR CONFLICTS AND A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Town Council passed Ordinance No. 2008-16 calling for a referendum election proposing amendments to Section 2.07 of the Town Charter; and

WHEREAS, The Town Council has determined that Ballot Question No. 1, the text of the proposed amendment and the Notice of Referendum relating to such Question No. 1 in Ordinance No. 2008-16 needs to be changed and clarified.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, as follows:

Section 1. Ballot Question No. 1, the text of the proposed amendment and the Notice of Referendum with respect to such Question no. 1 in Ordinance No. 2008-16 is hereby changed to read as follows:

**Ballot
Town of Malabar, Florida**

Question 1. Amendment to section 2.07 of the Charter relating to the election and term of appointed officials in the of office of the Town Council and the Mayor.

Proposes a Charter amendment that if a vacancy on Council or in the office of the Mayor is filled by Council appointment pursuant section 2.09 of the Charter then such appointive term shall not be used as part of the calculation for term limits.

___ Yes

___ No

Instruction to voters: If you are in favor of the adoption of the foregoing mark the space to the left of the word "YES". If you are not in favor of the adoption of the foregoing amendment, mark the space to the left of the word "NO".

REFERENDUM QUESTION 1.

1. Shall Section 2.07 of the Town Charter be amended as follows:

Sec. 2.07. Election and Terms.

The regular election of the Town Council members, including the Mayor, shall be held on the Tuesday after the first Monday of November each year to fill the expired terms as presently established and shall be for two (2) year terms. Two (2) council seats shall be elected in odd years and the remaining three (3) council seats in even years. The Mayor shall be elected to no more than two consecutive four-year terms. If only one (1) candidate qualified for any one of the council seats or the office of mayor, the name shall not appear on the ballot, and the candidate is automatically elected. In any election, the person having the highest number of votes in the election shall be elected. In the event

of a tie, the winner shall be selected by draw. Beginning with the terms commencing with November 1986 election and thereafter, an elected official shall not serve more than three (3) consecutive terms in any capacity, ~~even if~~ unless one of those terms was as an interim or appointed official in that case such appointed term shall not be used in calculating the three (3) consecutive term limit imposed by this section.

NOTICE OF REFERENDUM ELECTION
TOWN OF MALABAR, FLORIDA

Public notice is hereby given that on November 2, 2010; the issue of whether the Town shall adopt amendments to the Town charter will be submitted to the qualified electors of the Town of Malabar and will appear on the same election ballot as a referendum on that date as two separate ballot questions.

The Town Council of the Town of Malabar has adopted an ordinance calling the said election on the following questions:

AS TO QUESTION 1.

Proposes a Charter amendment that if a vacancy on Council or in the office of the Mayor is filled by Council appointment pursuant section 2.09 of the Charter then such appointive term shall not be used as part of the calculation for term limits.

Section 2.

All other provisions of Ordinance No. 2008-16 not in conflict with this Ordinance amending Question 1 of said Ordinance 2008-16 shall remain in full force and effect.

Section 3.

This Ordinance shall take effect immediately upon its adoption.

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

- | | |
|--|-----|
| Council Member Nancy Borton | Aye |
| Council Member Brian Vail | Aye |
| Council Member Steven (Steve) Rivet | Aye |
| Council Member Jeffrey (Jeff) McKnight | Aye |
| Council Member Marisa Acquaviva | Aye |

This ordinance was then declared to be duly passed and adopted this 16th day of August, 2010

TOWN OF MALABAR

BY: Thomas M. Eschenberg
Thomas M. Eschenberg, Chair

First Reading: 8/2/2010
Second Reading: 8/16/2010

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

Approved as to form and content:

Karl W. Bohne, Jr.
Karl W. Bohne, Jr., Town Attorney