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***Editor's note**—Printed herein is the Charter of the Town of Malabar adopted in a referendum on November 5, 1985, and by ordinance number 2-04-86 adopted on March 4, 1986, and as adopted on March 25, 2003. Style and capitalization have not been made uniform. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section. Additional changes were made after the Election Referendum of November 8, 2016 that created single district voting.

MALABAR CODE

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PREAMBLE

The people of the Town of Malabar desire to maintain the rural residential quality of life in their town and they are concerned about the possibility of uncontrolled growth in the future affecting that type of lifestyle. The people of the Town of Malabar are concerned that the power to govern their Town remain vested in a duly elected Town Council. Therefore, they have ratified by referendum this Charter and enacted it into law. They wish to maintain the rural residential character of their community. Furthermore, having complete faith in representative government with the ultimate power to govern remaining with themselves, they desire to codify the recent history of Malabar which has been the practice of vesting the decision-making power of the Town in a five (5) member Town Council elected by five single districts.

(Ord. No. 95-3, § 1, 7-17-95; Election Referendum on November 8, 2016 creating single district voting)

ARTICLE I. GENERAL PROVISIONS**Sec. 1.01. Short Title.**

This act shall be known as the Charter of the Town of Malabar, Brevard County, Florida, as established hereby.

Sec. 1.02. Creation and Powers.

The Town of Malabar created and incorporated under general law shall continue and is hereby vested with the governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services and may exercise any power for municipal purposes not expressly prohibited by the Constitution, general or special law or county charter.

Sec. 1.03. Corporate Limits.

The corporate limits of the Town of Malabar, Brevard County, Florida are defined as follows:

(insert description of current boundaries)

Editor's note—The description of the current boundaries is on file in the town clerk's office.

Sec. 1.04. Power and Jurisdiction.

The power and jurisdiction of the town shall extend over all lands and over all bodies of water and the air above, to the extent allowed by law within the corporate limits, and to all lands without the limits of the town owned, leased or operated by the town. The power and jurisdiction of the town includes all extraterritorial powers and jurisdiction granted by any special or general law. The town shall continue to exercise the power of eminent domain within or without the limits of the town which authority was granted by law. The town shall

have the power to acquire, receive, purchase and operate a public utility including but not limited to water, sewer, electricity, gas, transportation, etc., outside the jurisdiction of the town. The town may charge consumers outside its jurisdiction a rate as determined for utilities as required by law.

(Ord. No. 95-3, § 1, 7-17-95)

Sec. 1.05. Legislative Powers of Town.

The legislative powers of the town shall be vested in and exercised by a town council consistent with the provisions of this Charter, the United States Constitution, Florida Constitution, laws of the State of Florida and laws and ordinances of the Town.

Sec. 1.06. Form of Government.

The form of government of the Town shall be known as the Strong Council Plan.

ARTICLE II. THE TOWN COUNCIL

Sec. 2.01. Powers and Duties of Town Council.

All powers of the Town shall be vested in the elected Council, except as otherwise provided by law or by the Charter. The council shall provide for the exercise by the town of its municipal powers and for the performance of all duties and obligations imposed on the town by law.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 §1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 creating single district voting)

Sec. 2.02. Composition.

The Town Council Members shall be elected from five (5) separate districts to the election of Town Council members, who shall reside in five (5) separate districts and who shall be elected by the voters of the district where the candidate for Town Council resides. The Town shall also elect a mayor who is elected at large. (Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 §1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 created single district voting)

Sec. 2.03. Qualification 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 qualified electors of the candidate's district. The petition must be signed by fifteen (15) qualified electors from within the

district. The candidates shall submit with the petition a sworn statement containing the candidates 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. (Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, 2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, 1 5-15-06; Ord. No. 08-06 1, 5-19-08; Ord. No. 11-42 1 (Exh. A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 creating single district voting)

Sec. 2.04. Qualifications and Duties of the Mayor.

(a) The Mayor may be elected as the presiding officer of the Council and will thereafter serve at the discretion of the Council. The Mayor shall be the titular head of the Town government for ceremonial purposes, and for the purpose of civil process. The Mayor shall be responsible for civil defense and military law. The mayor shall execute all instruments that the Town is a party as the Council shall direct, unless otherwise provided by this Charter or by law. The Mayor shall vote only in the event of a tie. The Mayor shall have the power to veto any ordinance but the veto can be overridden by a four-fifths ($\frac{4}{5}$) vote of the Council.

(b) The Mayor shall be at least thirty (30) years of age, an elector of the Town and shall have resided in the Town for at least one (1) year prior to the date on which the candidate qualified to run for the office of Mayor. A candidate for Mayor shall submit a petition signed by 15 qualified electors from within the Town. If the Mayor shall cease to possess any such qualifications during the term of office, the Mayor shall forfeit the office pursuant to the procedure herein. The Mayor shall be elected to a four-year (4) term. (Election referendum on 11/6/2012.)

(c) The Mayor shall perform all duties that are delegated to the Mayor by vote of the town council and shall be responsible to the town council for the performance of these duties. The mayor shall preside as the ceremonial chief officer of the town at all ceremonial functions. (Ord. No. 95-3, § 1, 7-17-95)

Sec. 2.05. Form of Petition.

The signatures on the nominating petition need not all be affixed to one paper. Each separate page of a petition shall include an affidavit executed by the circulator stating the number of signatures, that each signature was affixed in the circulator's presence, and that the circulator believes each signature to be the genuine signature of that person. The signature shall be executed in ink or indelible pencil. Each signer shall indicate the date and the signer's address next to the signer's signature. (Ord. No. 95-3, § 1, 7-17-95)

Sec. 2.06. Judge of Qualifications.

The Council shall be the judge of the qualifications in this Charter of the candidates for election to the Council and for the office of Mayor and for that purpose shall have the power to subpoena witnesses and require the production of evidence. The decision of the Council

shall be subject to review by the courts. Review by the council of each candidate's qualifications shall be conducted at a council meeting after the candidate's qualifying papers are filed.

(Ord. No. 95-3, § 1, 7-17-95)

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 Council Member shall not serve more than three (3) consecutive terms in any capacity, even if one of those terms was as an interim or appointed official.

(Ord. No. 88-19, § 2, 4-5-88; Ord. No. 95-3, § 1, 7-17-95)

Sec. 2.08. Vacancy and forfeiture of office.

(a) The office of council person or mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law or by forfeiture of office. Forfeiture of office shall be declared by the remaining members of the council.

(b) An elected official shall forfeit the office if the elected official lacks, at any time during the term of office, any qualification for the office prescribed by this Charter or by law. The office of the elected official shall be forfeited automatically and immediately when the member is convicted of a felony.

(c) The Council shall have the power and authority to remove any member of the Council or the Mayor after due notice to the member and an opportunity to be heard in the member's defense, for absence from three (3) consecutive regularly scheduled council meetings unless he was physically disabled or unless he/she was excused by the Council for other good and sufficient cause.

(d) Elected officials shall be given a public hearing concerning any charge which may result in the censure or forfeiture of office. The date and time of a public hearing concerning a member charged with conduct constituting grounds for forfeiture of office shall be published in a newspaper of general circulation in the town at least one (1) week in advance of the hearing, or as otherwise provided by State or local law.

(e) If an elected official has violated any standard of conduct or code of ethics established by law for public officials, the Town's Council, after public hearing, may vote to censure that elected official with a minimum of three (3) votes being for censure. If the Town Council votes for censure, an inquiry directed to the Ethics Commission of the State of Florida shall be drawn by Town Council with the aid of the Town Attorney.

(f) If the elected official shall be charged with forfeiture of office because the official lacks at any time during the term of office any qualification for the office prescribed by this Charter or by law or because the elected official has been convicted of a felony a public hearing resulting in a majority vote by the remaining town council members shall determine whether the elected official shall forfeit the office.

(g) If an elected official shall be charged with forfeiture of office because the official has been convicted of a felony the public hearing as aforementioned shall be solely for the determination by the town attorney whether or not such a conviction as defined by law has occurred. If the town attorney determines that the elected official has been convicted of a felony the elected official shall forfeit the office immediately.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, 2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, 1 5-15-06; Ord. No. 08-06 1, 5-19-08; Ord. No. 11-42 1 (Exh A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 creating single district voting)

Sec. 2.09. Filling of Vacancies.

If a vacancy occurs on the council or in the office of mayor and there is less than one (1) year before the next regular town election, the council, by a majority vote of the remaining full council shall choose a successor to serve until the election is held to fill the vacancy for the unexpired term. The successor must have all qualifications as described in Section 2.03. If more than one (1) year remains prior to the date of the next regular election, that seat or office of mayor shall be filled by special election for the remainder of the unexpired term. The council shall schedule a special election to be held not sooner than sixty (60) days nor more than ninety (90) days, following the occurrence of the vacancy. Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members may, by majority vote appoint additional members until the vacancies are filled as provided herein.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, 2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, 1 5-15-06; Ord. No. 08-06 1, 5-19-08; Ord. No. 11-42 1 (Exh A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 creating single district voting)

Sec. 2.10. Extraordinary Vacancies.

In the event that all members of the council are removed by death, disability or forfeiture of office, the governor shall appoint an interim council that shall call a special election as provided in Section 2.09 to fill the unexpired terms.

Sec. 2.11. Meetings.

(a) The Town Council shall meet regularly not less than once every month at such time and place as the council may prescribe by resolution. Meetings shall be conducted under the guidelines of Robert's Rules of Order. Special meetings limited to the subjects in the call may be held on the call of the mayor, the chairman or a majority of the members with no less than twenty-four (24) hours notice to each member and the public. Emergency meetings may be called. Council shall provide by ordinance for determination of an emergency meeting.

Action taken at emergency meetings must be ratified at the next regularly scheduled meeting of the town council. Any meeting of the town council under these provisions shall be continued by a majority vote of the town council until a time set by the council if business scheduled at such meeting is not concluded.

(b) Notice of meetings shall be posted on a conspicuously placed bulletin board outside the town hall protected from the elements. The notice shall contain the date, time and nature of the particular meeting.

(c) The Chairperson shall set the order of business for each meeting.

(d) Voting on ordinances and resolutions shall be by roll call and shall be recorded in the minutes. Three members of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members. No action of the council except as otherwise provided herein shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, 2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, 1 5-15-06; Ord. No. 08-06 1, 5-19-08; Ord. No. 11-42 1 (Exh A), 8-1-11/11-20-11;

Sec. 2.12. Reserved.

Editor's note—Ord. No. 03-07, 2(Exh A), adopted September 8, 2003, election of November 4, 2003, repealed Sec 2.12 which pertained to compensation and expenses and derived from Ord. No. 95-3, § 1, 7-17-95; Amd. of 3-25-03.

Sec. 2.13. Chairperson and Vice-Chairperson.

The full Council shall elect from among its members and mayor a chairperson and vice-chairperson. Election of the chairperson and vice-chairperson shall be done annually at the first regular Council meeting after the Town election. The Chairperson shall preside at meetings of the Council, and shall have such duties as described herein. The vice-chairperson shall act as chairperson during the absence or disability of the Chairperson.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 §1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 2.14. Specific Duties.

(a) The Town Council shall appoint or remove all the Town administrative officers.

(b) In the absence of a Town Administrator, the Town Council will be responsible for the direction and supervision of Town Officers, employees and agents.

(c) No former elected town official shall hold any compensated appointive town office or employment until one (1) year after the expiration of the term for which he/she was elected. (Ord. No. 95-3, § 1, 7-17-95)

Sec. 2.15. Council to appoint Town Clerk.

The Town Clerk shall be appointed by vote of the Town Council.
(Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11)

Sec. 2.16. Ordinances.

(a) The Council shall have the power to pass ordinances not inconsistent with this Charter, the Comprehensive Land Use Plan, the Constitution and laws of the State of Florida or the United States.

(b) No ordinances except an emergency ordinance shall be passed until it has been read in at least two (2) meetings. At least ten (10) days shall elapse between the first and second meeting except in the case of an emergency ordinance. Notice of the proposed ordinance shall be given by publishing the title of the ordinance by posting it at the door of the town hall and by publishing the title at least ten (10) days prior to the adoption of the proposed ordinance in a newspaper of general area circulation in the Town.

(c) The ordaining clause of every ordinance shall be as follows: Be it ordained by the Council of the Town of Malabar, Florida.

(d) The readings may be made by title only.

(e) An emergency ordinance shall be so classified and can be passed with two (2) readings in the same meeting.
(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

ARTICLE III. ADMINISTRATION**Sec. 3.01. Powers and Duties of the Town Council.**

The Town Council shall be responsible for the administration of all Town affairs and to that end subject to the provisions of this charter shall have the power and are required to:

- (1) Appoint, suspend and remove Town administrative officers;
- (2) Set the salary of the town employees;
- (3) Approve an annual town budget, together with such other fiscal reports and programs as required, and be responsible for the administration of the town budget and other fiscal programs as required;
- (4) Make such reports concerning the operation and administration of Town government as required; and
- (5) Perform such other duties as may be prescribed in ordinances consistent with the Charter.

Sec. 3.02. Administrative Units of Town Government.

The Council, by ordinance may establish and prescribe the composition, duties and functions of town departments, agencies and offices and boards, in addition to those created by this charter. The departments, agencies, offices and boards created may be abolished or consolidated and the duties or functions may be discontinued or reassigned or additional duties or functions may be assigned in the same manner. The administrative units of the town shall be described in the following sections.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 3.03. Office of the Town Clerk.

The office of the Town Clerk shall be headed by a Town Clerk appointed by the Council. The salary of the Town Clerk shall be approved by the Council. The Town Clerk shall be under the administrative direction and control of the Town Council. The town clerk shall be the clerk of the council and shall keep the council journal and shall be custodian of ordinances, resolutions and such other official records as the Council may prescribe. The town clerk shall give notice of council meetings to its members and the public and shall keep the minutes of its proceedings which shall be a public record. The town clerk shall attest to contracts, bonds and other instruments as may be prescribed by law. The town clerk shall be the chief elections officer of the town. The town clerk shall have such other duties as prescribed by town council by ordinance, and all other duties at the request and under the direction of the Town Council or any member of the Town Council or the Mayor at the direction of the Town Council. The Town Clerk shall be the Town Treasurer and as such shall be custodian of all monies of the Town. At the discretion of the Town Council the duties of Treasurer signed herein to the Clerk may be delegated to an appointed Treasurer.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 3.04. Office of the Town Attorney.

The Town Attorney shall be appointed by the Council. The town attorney shall be a member in good standing of the Florida Bar. The compensation of the town attorney shall be set by the council. The town attorney shall be the legal advisor to the officers of the town in all matters affecting the town or relating to their official duties. The town attorney shall prosecute and defend on behalf of the town all civil actions in which the town is concerned and perform such other duties as the town council may require. The town attorney and his assistants shall be admitted to and have authority to practice in all the courts of the state and the Federal District Court. The town attorney may recommend assistant town attorneys when necessary as determined by the council.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 3.05. Advisory Boards.

The Council may establish advisory boards to make recommendations including but not limited to, economic development, recreation, parks, playgrounds and their facilities and activities as well as planning and zoning and such other municipal functions as the Council deems advisable. The voting members of the boards shall be registered electors of the Town appointed based on their qualification to be a member of that board.

Sec. 3.06. Residential Zoning.

In order to preserve the rural character of the Town of Malabar, no area which is or will be zoned for single family residences shall contain a density greater than one (1) unit for every one and one-half (1 ½) acres or as set forth in the Comprehensive Land Use Plan of the Town. All lots of record will be grandfathered in.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

ARTICLE IV. FINANCIAL MATTERS**Sec. 4.01. Public Monies.**

All public monies shall be deposited in the name of the Town of Malabar in banks designated by the council. All public monies shall be disbursed only by check to be signed by two (2) of four (4) authorized signatures. The town clerk administrator, the mayor and a delegated council member shall be authorized to sign checks.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 4.02. Budget.

The budget shall provide a complete financial plan of all municipal funds and activities for the ensuing fiscal year and, except as required by law or this charter, shall be in such form as the town council may require. The budget shall be compiled from detailed information and the classification of expenditures shall follow the Governmental Uniform Accounting System set forth by the Department of Banking and Finance of the State of Florida. It is mandatory that the budget will be balanced for each fiscal year.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 4.03. Purchase and Sale of Real Property.

All purchases and sales of real property owned by the Town within the town limits will be subject to public notice and hearing before a vote by the Town Council is taken. The public notice shall be of the same extent and nature as that required by the Florida Statutes for a rezoning.

ARTICLE V. INITIATIVE AND REFERENDUM**Sec. 5.01. Initiative and Referendum Power.**

(a) The qualified voters of the Town shall have the power to propose the adoption or repeal of ordinances to the council. This power shall not extend to any emergency ordinance or any ordinance adopting the budget or any capital program or any ordinance relating to the appropriation of money, levy of taxes or establishing salaries of Town employees.

Sec. 5.02. Procedure.

Any five (5) qualified voters may commence initiative or referendum proceedings by filing with the Town Clerk or other official designated by the Council an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. After the affidavit of the petitioners' committee is filed the Clerk or other official designated by the Council may issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

Sec. 5.03. Petitions.

(a) Initiative and referendum petitions must be signed by qualified voters of the Town equal in number to at least fifteen percent (15%) of the total number of qualified voters registered to vote at the last regular Town election.

(b) All pages of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

(c) Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator stating that the circulator personally obtained the signatures thereon, that all the signatures were affixed in the circulator's presence, that the circulator believes them to be genuine signatures of these persons and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

(d) Referendum petitions must be filed within thirty (30) days after adoption by the Council of the ordinance sought to be reconsidered.

Sec. 5.04. Procedure for Filing.

(a) Within twenty (20) days after the initiative or referendum petition has been filed, the Town Clerk or other official designated by the Council shall evaluate the petition and complete a certificate as to its sufficiency. If it is insufficient, the committee shall be

promptly sent by registered mail a copy of the certificate stating the defects. The grounds for insufficiency shall be those specified in subsection 5.03. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the Clerk or other official designated by the Council within two (2) days after receiving the copy of the certificate. A supplementary petition shall comply with the requirements of subsections (a) through (c) of Section 5.03. The Clerk or other official designated by the Council shall within five (5) days after the petition is filed complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request council review under subsection (b) of this Section within the time required, the Clerk or other official designated by the Council shall promptly present the certificate to the Council and the Council shall then be the final determination as to the sufficiency of the petition.

(b) If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may within two (2) days after receiving the copy of such certificate file a request that it be reviewed by the council. The Council shall review the certificate at its next meeting following the filing of such request and approve or disapprove it. The Council's determination shall be the final determination as to the sufficiency of the petition.

Sec. 5.05. Referendum Petition; Suspension of Effect of Ordinance.

When a referendum petition is filed with the Town Clerk or other official designated by the council, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- (a) There is a final determination of sufficiency of the petition;
- (b) The petitioners' committee withdraws the petition;
- (c) The council repeals the ordinance; or
- (d) Referendum on the ordinance has been certified.

Sec. 5.06. Action on Petitions.

(a) After the Town Clerk has determined the sufficiency of an initiative or referendum petition, the Council will review the determination at its next scheduled meeting. The Council's decision shall be a final determination as to the sufficiency of the petition. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance in the manner provided for adopting ordinances or reconsider the referred ordinance by voting its repeal. If the Council fails to

adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the voters of the Town.

(b) The referendum on a proposed or referred ordinance shall be held not less than ninety (90) days and not later than 120 days from the date the petition was considered by the council. If no regular Town election is to be held within the period described in this subsection, the council shall provide for a special election except that the Council may in its discretion provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be available at the polls.

(c) An initiative or referendum petition may be withdrawn at any time preceding the day set for the final determination by the Town Council by filing with the Town Clerk or other official designated by the Council a request for withdrawal signed by at least [four] (4) members of the petitioners' committee. Upon the filing of such request for withdrawal, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

Sec. 5.07. Results of election.

(a) Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in favor of it, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(b) Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VI. RECALL; CONDUCT OF OFFICIALS IN OFFICE

Sec. 6.01. Recall.

The citizens of the Town of Malabar shall have the right to recall (remove) any official of the Town of Malabar who, in their judgment, is not performing his duties up to the standards set for officials by the Statutes of the State of Florida, as required by law.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 creating single district voting)

Sec. 6.02. Conduct of Officials in Office.

The officials of the Town of Malabar will [be] held to standards in office set forth in the Florida Statutes as required by law. These statutes hold officials statewide to standards of

conduct concerning conflict of interest, ethics and morality as it affects their performance of duty in office. Ramifications for violations of these standards are set forth in the Florida Statutes.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

ARTICLE VII. TRANSITION PROVISIONS

Sec. 7.01. Ordinances and Resolutions Preserved.

All ordinances or resolutions of the Town in effect upon the adoption of this Charter to the extent not inconsistent with it shall remain in force until repealed or changed as provided herein.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 7.02. Rights of Officers and Employees; Transition of Council Members.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are town officers or employees at the time of adoption. The present mayor and town council members shall continue to hold their offices and discharge their duties under this Charter until their successors are elected.

(Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11;

Sec. 7.03. Obligation of Contracts Preserved.

No debt or contract of the municipality including bonds heretofore issued shall be impaired or voided by the adoption of this Charter.

Sec. 7.04. Pending Matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the town shall continue except as modified pursuant to the provisions of this Charter.

Sec. 7.05. Schedule.

This Charter shall become effective when approved by the electors and filed with the Secretary of State of Florida in the manner prescribed by law. The filing shall occur within seven (7) days.

ARTICLE VIII. SEVERABILITY AND EFFECTIVE DATE**Sec. 8.01. Severability.**

If any article, section or portion of an article or section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such article, section or portion of any article or section so held invalid may appear, except to the extent that an entire article or section or part of an article or section or part of a section may be inseparably connected in meaning and effect with that portion of the act to which the holding shall directly apply.

Sec. 8.02. Effective Date.

This Charter shall take effect as of the date the Charter is filed with the Secretary of State.

ARTICLE IX. AMENDMENT TO CHARTER**Sec. 9.01. Amendment.**

Pursuant to Florida Statute this Charter may be amended by the electors of the municipality with the submission of a petition signed by ten (10) percent of the registered electorate including the proposed amendment to its charter. The proposed amendment will be placed on a petition to a vote of the electors at the next general election or at a special election called for such purpose.

(Ord. No. 95-3, § 1, 7-17-95; (Ord. No. 95-3, § 1, 7-17-95; Amd 3-25-03; Ord No. 03-07, §2 (Exh. A) 9-8-03/11-4-03; Ord. No. 06-08, §1 5-15-06; Ord. No. 08-06 § 1, 5-19-08; Ord. No. 11-42 §1 (Exh A), 8-1-11/11-20-11; Election Referendum on November 8, 2016 creating single district voting)