

## ORDINANCE 2014-07

AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING AN AMENDMENT TO CHAPTER 2, ARTICLE II OF THE CODE OF ORDINANCES OF THE TOWN; CREATING NEW SECTION 2-26 RELATING TO THE MAYORAL VETO PROCESS OF ORDINANCES; PROVIDING FOR A REQUIREMENT THAT THE VETO BE PRESENTED IN WRITING; PROVIDING FOR COUNCIL PROCESS TO OVERRIDE VETO OF ORDINANCES; PROVIDING PROCESS FOR EMERGENCY ORDINANCE VETO AND OVERRIDE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

**WHEREAS**, the Town's Charter authorizes the Mayor to exercise veto power over any ordinance approved by Council; and

**WHEREAS**, the Town Council has determined that a process is needed to provide guidance on how the veto should be presented, considered and possibly overridden; and

**WHEREAS**, the Town Council has discussed this issue over a period of months in 2014 and determined a formal policy is needed in the Code for both the Mayor and the Council.

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

**SECTION 1.** Chapter 2, Article II of the Code of Ordinances is hereby amended to create new section 2-26 to read as follows:

**"Sec. 2-26. Mayoral Veto Procedures.**

(a) *Mayoral Exercise of Veto; Generally.* The Mayor shall exercise the veto power within five (5) business days of the Town Council's final vote of second reading to adopt the ordinance. The veto shall be in writing and state the grounds for the veto which veto shall be filed with the Clerk, within the above five (5) business days, who shall present the veto and the grounds for the veto to the Council at its next scheduled meeting. The matter may not be removed from the agenda, postponed, continued or tabled. A four-fifths vote of all the members of the council shall then make the ordinance effective notwithstanding the veto of the Mayor.

(b) *Emergency Ordinances.* The Mayor shall exercise the veto power on an ordinance approved by Council at the same meeting the emergency ordinance is approved and adopted. After the vote approving an Emergency Ordinance the Mayor shall orally pronounce that he/she is exercising a veto and shall orally pronounce the grounds for the veto. A four-fifths vote of all the members of the Council at the same meeting shall then make the ordinance effective notwithstanding the veto of the Mayor.

(c) *Meeting Process.* For any veto under subsection (a) above, the Veto and grounds for the veto are read by the Council Chair verbatim. There must then be a 'Motion to Override the Mayor's Veto' that is seconded before any discussion on or debate of the veto or the grounds can occur. During 'Discussion' the Mayor gets to speak first and last on the subject matter. After debate, there shall be a roll-call vote. Four (4) affirmative votes are required to override the veto. If there is no motion to override or if the motion fails to get a second, the veto stands and the ordinance shall be ineffective due to the Mayor's veto.

For any veto made under subsection (b) above there shall be no need for the Chair to read the veto and grounds verbatim; however, the remaining procedures in this subsection shall apply to a veto of an Emergency Ordinance.

(d) Ordinance Reconsideration / Amendment. The ordinance which is the subject matter of the veto cannot be amended at the meeting where the issue to override the Mayor's veto is concerned. Should the override succeed nothing herein is designed to prevent a new ordinance from being proposed to amend adopted ordinance. If the override fails, nothing herein is designed to prevent a new ordinance from being proposed relating to the subject matter of the vetoed ordinance. The Town Council cannot reconsider or rescind a failed override vote or a vote that overrides the veto.

**SECTION 2.** Codification. The provisions of this ordinance shall become part of the Code of Ordinances of the Town of Malabar.

**SECTION 3. Conflict.**  
All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4. Severability.** In the event a court of competent jurisdiction shall hold or determine that any part of this ordinance is invalid or unconstitutional, the remainder shall not be affected and it shall be presumed that the Town Council of the Town of Malabar did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the Town Council would have enacted the remainder of this ordinance without said invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

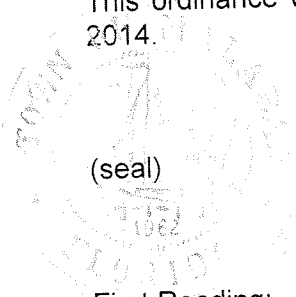
**SECTION 5.** This ordinance shall become effective immediately upon its adoption after the second reading and public hearing.

This ordinance was moved for adoption by Council Member Acquaviva and was seconded by Council Member Milucky and, upon being put to a vote, the vote was as follows:

- Council Member Jim Milucky
- Council Member Wayne Abare
- Council Member Steve Rivet
- Council Member Dick Korn
- Council Member Marisa Acquaviva

Aye  
Aye  
Aye  
Aye  
Aye

This ordinance was then declared to be duly passed and adopted this     th day of June, 2014.



(seal)

TOWN OF MALABAR

By:

Steve Rivet  
Council Chair Steve Rivet

First Reading: 06/02/2014 Passed 5 to 0  
Second Reading: 6/16/14

ATTEST:

Debby K. Franklin  
Debby K. Franklin, C.M.C.,  
Town Clerk/Treasurer

Approved as to Form and Content:

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