

## ORDINANCE 2020-05

**AN ORDINANCE OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, REPEALING AND REPLACING ORDINANCE 2019-10 AND AMENDING SECTION 2.03 OF THE TOWN CHARTER RELATING TO THE COUNCIL CANDIDATE QUALIFYING PERIOD; AMENDING SECTION 2.04 OF THE TOWN CHARTER RELATING TO THE MAYOR QUALIFYING PERIOD; 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 76 days prior to the date of an election; and

**WHEREAS**, the State of Florida in 2019 approved Senate Bill 6077 amending Section 100.062 *Florida Statutes*, by changing the date of the primary election from 10 weeks prior to the general election to 11 weeks prior to the general election; and,

**WHEREAS**, the Town Council recognized the need to adjust the candidate qualifying period for 2019 to conform to the provisions of Senate Bill 7066 and reduced their qualifying period to one week and now desires to change it back to a two-week period; 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.** 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 eighty-four (84) days and not more than ninety-eight (98) 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. “

**SECTION 2.** Section 2.04 (b) of the Malabar Charter is hereby amended to read as follows:

**“Sec. 2.04. Qualifications and Duties of the Mayor.**

(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 not less than eighty-four (84) days and not more than ninety-eight (98) 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. ...."

**SECTION 3. 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 4. 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 5. CONFLICT.** All ordinances or parts thereof in conflict herewith are hereby repealed to the extent of such conflict with this Ordinance.

**SECTION 6. EFFECTIVE DATE.** The ordinance shall take effect immediately upon its adoption.

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

Council Member Grant Ball	Aye
Council Member Brian Vail	Aye
Council Member Steve Rivet	Excused
Council Member David Scardino	Aye
Council Member Danny White	Aye

**PASSED AND ADOPTED** by the Town Council, Town of Malabar, Brevard County, Florida this 6<sup>th</sup> day of July, 2020.

BY: TOWN OF MALABAR

original signed  
Mayor Patrick T. Reilly, Council Chair

First Reading: 06-15-20 Vote:  
Second Reading: 07-06-2020

ATTEST:

\_\_\_\_\_  
Debby K. Franklin, Town Clerk/Treasurer

(seal)

Approved as to form and  
legal sufficiency by:

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