

A ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 30, SECTION 30-2, OF THE CODE OF THE CITY OF VERO BEACH, FLORIDA, RELATED TO AMEND THE DEFINITION OF QUALIFYING PERIOD; AMENDING SECTION 30-3 TO PROVIDE FOR CITY CLERK TO INFORM CANDIDATES OF MISSING OR INCOMPLETE FILINGS, REQUIRING CHECK TO BE SIGNED BY TREASURER OR DEPUTY TREASURER AND STATING ACCEPTANCE OF CHECK DOES NOT PREVENT FINDING A PERSON DID NOT QUALIFY LATER, AND AMENDING WHAT FORMS THE CLERK MAY AND MAY NOT ACCEPT PRIOR TO THE QUALIFYING PERIOD; SECTION 30-6 REMOVING THE CANVASSING BOARD FROM THE QUALIFICATION DECISION MAKING PROCESS, CLARIFYING CHAPTER 106, FLORIDA STATUTES, APPLICATION TO QUALIFICATION, AND DIRECTING INDIVIDUALS WITH STANDING TO PURSUE LITIGATION TO CHALLENGE QUALIFICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, Chapter 30 of the Code of the City of Vero Beach provides for qualification of candidates for election to the office of city council member; and

Whereas, clarification of the city clerk's responsibilities as supervisor of election and candidates' responsibilities for qualifying papers is warranted; and

Whereas, the City Council finds that adopt of this ordinance will serve to promote and protect the public interest and elector confidence in the city election process and protect the integrity of city elections and thereby further the health, safety, and general welfare of the citizens of the City of Vero Beach,

Now therefore, be it ordained by the city council of the city of Vero Beach, that **Section 1 – Amendment of Chapter 30, Section 30-2 is amended as follows:**

Chapter 30, Section 30-2, of the Code of the City of Vero Beach, is hereby amended as follows:

Section 30-2. - Definitions.

As used in this chapter:

Resident, residence, and residency mean and refer to the establishment of a person's domicile within the city limits of the City of Vero Beach that constitutes an actual and bona fide legal abode as recognized by the person claiming residency, coupled with that person's intent to reside in and maintain the abode as his or her permanent, predominant, and principal home.

Qualifying period means the period of time commencing on the 75th day, and ending at 5:00 12:00 p.m. (noon) on the 60th day, before the election for which the person seeks to qualify as a candidate for election to the office of city councilmember. If the 60th day falls on a day that is a

1 Saturday, Sunday, or city holiday, the qualifying period shall be automatically extended to ~~the end~~
2 12:00 p.m. (noon) of the next city business day.

3 Pre-Qualifying period means the 14 days prior to the qualifying period.

4 **Section 2 – Amendment of Chapter 30, Section 30-3:**

5 Chapter 30, Section 30-3, of the Code of the City of Vero Beach, is hereby amended as
6 follows:

7 Section. 30-3. - Eligibility and qualifying for office of councilmember.

8 (a) Timely and complete filing. Each person seeking to qualify as a candidate for election to the
9 office of city councilmember shall file his or her qualifying papers with, and pay the qualifying
10 fee to, the city clerk during the pre-qualifying or qualifying period. It shall be the responsibility
11 of the person seeking to qualify to ensure that the city clerk timely receives all items as
12 required by subsection (b) of this section by the close of the qualifying period. If the city clerk
13 receives qualifying papers during the qualifying period prescribed in this section which do not
14 include all items as required by this section or are incomplete, the city clerk shall make a
15 reasonable effort to notify the candidate of the missing or incomplete items and shall inform
16 the candidate that all required items must be received by the close of qualifying. Failure of
17 the city clerk to identify missing or incomplete filings prior to the close of qualifying does not
18 absolve the candidate of the responsibility to file completed qualifying papers in order to
19 qualify for the ballot. If all required and completed items are not received by the city clerk by
20 the close of the qualifying period, the person shall not be qualified as a candidate.

21 (b) Persons eligible to qualify for office of councilmember. A person is eligible to be a member
22 of the city council and may qualify as a candidate for election to the office of city
23 councilmember only if that person:

24 (1) Is at least 18 years old by the end of the qualifying period;

25 (2) Is a qualified and registered elector of the city as set forth in Article IV of the Charter
26 of the city;

27 (3) Is a permanent and legal resident of the city;

28 (4) Was continuously a permanent and legal resident of the city during the one (1) year
29 immediately preceding the last day of the qualifying period as set forth in Article II of the
30 Charter of the city;

31 (5) If elected, continuously maintains his or her status as a qualified elector and a permanent
32 and legal resident of the city for the duration of his or her term of office as set forth in
33 Article II of the Charter of the city;

34 (6) Pays the qualifying fee to the city clerk as set forth in section 30-5 by a properly executed
35 check drawn upon the candidate's campaign account signed by the treasurer or a deputy
36 treasurer or, in lieu thereof, as applicable, files a written certification as provided in
37 section 30-5(b). Acceptance of the filing fee at the time candidates submit qualifying
38 papers does not prevent the city clerk from finding a candidate is not qualified under
39 section 30-6;

40 (7) Files the following qualifying papers with the city clerk before the end of the qualifying
41 period:

- 1 a. The "oath of candidate" required by F.S. § 99.021, which must contain the name of
2 the candidate as it is to appear on the ballot; the office sought; and the signature of
3 the candidate, duly acknowledged;
- 4 b. The "appointment of campaign treasurer and designation of campaign depository for
5 candidates" required by F.S. § 106.021, completed and signed by the candidate and
6 the campaign treasurer;
- 7 c. The statement of financial interests required by F.S. § 112.3145;
- 8 d. Proof of legal residency and status as a qualified and registered elector of the city
9 shall be in the form of a current Florida Voter Registration Card and at least one
10 additional item such as:
 - 11 1. Florida Driver's License or Identification card;
 - 12 2. Deed;
 - 13 3. Residential rental/lease agreement;
 - 14 4. Proof of homestead;
 - 15 5. Florida vehicle registration or title;
 - 16 6. Utility bills from the last two months;
 - 17 7. Selective Service card; or
 - 18 8. Other similar evidence as may be reasonably required by the city clerk.
- 19 e. The notice of candidacy and affidavit of candidate in substantially the following
20 form, which document shall be verified by the candidate by signing the following
21 written declaration: "Under penalties of perjury, I declare that I have read the
22 foregoing Notice of Candidacy and Affidavit of Candidate and that the facts stated
23 in it are true."

24 NOTICE OF CANDIDACY
25 AND AFFIDAVIT OF CANDIDATE

26 STATE OF FLORIDA
27 COUNTY OF _____

28 I, (name of candidate), depose and state:

- 29 1. My name is _____.
- 30 2. I am offering myself as a candidate for election to the office of
31 councilmember of the City of Vero Beach, Florida.
- 32 3. I am or will be at least 18 years old by the end of the qualifying period.
- 33 4. I have resided in the City of Vero Beach continuously for the one (1) year
34 immediately preceding the last day of the qualifying period and I am a
35 qualified and registered elector of the City of Vero Beach, Florida, presently
36 registered to vote in precinct number _____.

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5. I presently reside at the following address (must include zip code):
_____,
which is my permanent, legal address, and I have resided continuously at
said address since the ____ day of _____.

6. Immediately prior to residing at the above-stated address, I have resided at
the below listed addresses for the specified periods of time: (If your
residence at the address listed in number 5 above has been for less than one
(1) full year, list all other addresses at which you have resided for the past
one (1) year and specify the time period at each address, including starting
and ending dates).

Prior Addresses	For the Period
<u>*For additional residences, attach additional sheets as necessary.*</u>	

7. At the present time, I am not registered to vote in any city, county, or state
other than as specified in paragraph 4, above.

8. I acknowledge that, if elected, I must continuously maintain my permanent
legal residence within the City of Vero Beach and my status as a registered
and qualified elector of the City for the duration of my term of office and if
I fail to do so I will forfeit my office as city councilmember.

VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Notice of
Candidacy and Affidavit of Candidate and that the facts stated in it are true.

DATED this _____ day of _____, 2 _____.

_____	_____
Print candidate name	Candidate signature

(c) *Early acceptance of candidate papers.* ~~Notwithstanding the prescribed qualifying period
and the other provisions of this chapter, The city clerk is authorized to:~~

- (1) The city clerk shall not Accept and hold qualifying papers (Oath of Candidate, Statement of Financial Interest, and Notice of Candidacy and Affidavit of Candidate) submitted not earlier than 14 days prior to the beginning of the qualifying period, to be subsequently filed and processed by the city clerk during the qualifying period.; and
- (2) Accept The city clerk shall accept for filing at any time, candidate papers related to campaign financing and reporting as provided by F.S. ch. 106, including but not limited to Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates, Statement of Candidate and reports related to campaign contributions and expenditures at any time.

1 **Section 3 – Amendment of Chapter 30, Section 30-6:**

2 Chapter 30, Section 30-6, of the Code of the City of Vero Beach, is hereby amended as
3 follows:

4 Section 30-6. ~~Finding P~~ persons found ineligible to qualify as a candidate.

5 (a) The city clerk performs a ministerial function in reviewing qualifying papers. In
6 determining whether a candidate is qualified, the city clerk shall review the qualifying papers to
7 determine if: ~~whether A person shall not be qualified as a candidate for election if the city clerk,~~
8 ~~with the approval of the city canvassing board, finds that:~~

9 (1) The qualifying papers of a candidate show, on their face, that such person is not eligible
10 to be a member of the city council or to otherwise qualify as a candidate for election to
11 the office of councilmember, any oath or affirmation taken or subscribed to by such
12 person notwithstanding;

13 (2) The qualifying papers of a candidate, on their face, are not in compliance with the
14 applicable elections laws of the State of Florida and in compliance with the applicable
15 City Charter or laws or ordinances;

16 (3) The qualifying papers of any candidate, on their face, are incomplete or defective, and
17 are incomplete or defective at the end of the qualifying period;

18 (4) The city clerk has received written notification from the Indian River County Supervisor
19 of Elections that a candidate is not a qualified and registered elector of the City of Vero
20 Beach; or

21 (5) The qualifying fee has not been paid in accordance with law or in lieu thereof a
22 completed affidavit of undue burden has not been filed.

23 (b) Except as otherwise expressly stated in state statute, the failure of a candidate to comply
24 with the requirements of chapter 106, Florida Statutes has no effect upon whether the candidate
25 has qualified.

26 (c) If after the close of qualifying and after the candidate names have been submitted to the
27 Indian River County Supervisor of Election for inclusion on the ballot, an individual with standing
28 believes a candidate is not qualified, the individual may file suit against the candidate regarding
29 the candidate's qualification.

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31 **Section 4. Conflict and severability.**

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33 In the event any provision of this Ordinance conflicts with any other provision of the Code
34 or other City ordinance or resolution, the provisions of this Ordinance shall apply and supersede
35 on the subject matter of this Ordinance. If any phrase or portion of this Ordinance or application
36 thereof to any person or circumstance is held invalid or unconstitutional by any court of competent
37 jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such
38 holding shall not affect the validity of the remaining portion.

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40 **Section 5. Codification.**

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42 The amendments provided for in this Ordinance shall be codified in the Code of the City
43 of Vero Beach, Florida.

1
2 **Section 6. Effective Date.**
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4 This Ordinance shall become effective upon adoption by the City Council.
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7 *****

8 This Ordinance was read for the first time on the 5th day of February 2019, and
9 was advertised on the 9th day of February 2019, for a public hearing to be held on the
10 19th day of February 2019, at which time it was moved for adoption by Councilmember
11 Howle, seconded by Councilmember Zudans and adopted by the following
12 vote:

13 Mayor Harry Howle III yes
14 Vice Mayor Lange Sykes yes
15 Councilmember Laura Moss no
16 Councilmember Anthony W. Young yes
17 Councilmember Val Zudans yes
18

19 ATTEST: CITY OF VERO BEACH, FLORIDA

20
21 Tammy K. Bursick
22 Tammy K. Bursick
23 City Clerk
24
25

Harry Howle III
Harry Howle III
Mayor
26

27 [Seal]
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29 **ADMINISTRATIVE REVIEW**
30 (For Internal Use Only–Sec. 2-77 COVB Code)
31

32 Approved as to form and legal
33 sufficiency:
34
35 Kira C. Honse
36 Kira C. Honse
37 Interim City Attorney
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Approved as conforming to municipal
policy:
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James R. O'Connor
James R. O'Connor
City Manager