

**ORDINANCE NO. 639**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, SUBMITTING TO REFERENDUM AMENDMENTS TO THE TOWN OF OCEAN RIDGE TOWN CHARTER; AMENDING ARTICLE III “LEGISLATIVE”, SECTION 3.02 “QUALIFICATIONS”, TO MODIFY CANDIDATE QUALIFYING PERIODS AND TO REMOVE LANGUAGE REGARDING QUALIFICATIONS AND A FORFEITURE PROCESS; AMENDING SECTION 3.03 “ELECTION AND TERMS”, TO MODIFY THE START OF A COMMISSION TERM AND THE DATE OF THE ELECTION; AMENDING ARTICLE V “NOMINATIONS AND ELECTIONS”, SECTION 5.01 “ELECTORS”, TO PROVIDE THAT ELECTORS MUST ALSO MEET TOWN REQUIREMENTS; AMENDING SECTION 5.04 “FORM OF BALLOT”, TO PROVIDE THAT THE FORM OF BALLOTS SHALL BE DETERMINED BY LAW; AMENDING SECTION 5.05 “ELECTIONS”, TO PROVIDE FOR A CHANGE IN THE MUNICIPAL ELECTION DATE TO COINCIDE WITH COUNTYWIDE OR STATEWIDE ELECTIONS AND TO PROVIDE PROCEDURES IN THE EVENT OF A TIE VOTE; AMENDING ARTICLE VII “FINANCE AND TAXATION”, SECTION 7.02 “FUND TRANSFERS; FUND EQUITY”, TO CORRECT CERTAIN SPELLING ERRORS; ESTABLISHING THE DATE OF MARCH 12, 2019, FOR THE REFERENDUM; PROVIDING A BALLOT TITLE AND QUESTION; PROVIDING FOR NOTICE AND ADVERTISING OF THE REFERENDUM; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Ocean Ridge, Florida (the “Town”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, pursuant to §166.021 and §166.031, Fla. Stat., the Town of Ocean Ridge Town Charter (the “Charter”) may be amended through the Town’s exercise of its authority, including the amendment of those portions of its Charter which require a referendum, provided that a majority of the electors in a referendum affirmatively vote to amend the Charter; and

**WHEREAS**, the Town Commission appointed a Charter Review Committee who met on several occasions at duly noticed public meetings and recommended several amendments to the Town Charter; and

**WHEREAS**, §166.031, Fla. Stat. authorizes the governing body of a municipality to submit proposed amendments to the Charter of the municipality in the form of an ordinance to the electors

of the municipality; and

**WHEREAS**, §100.342, Fla. Stat., requires that the Town publish two (2) notices in a newspaper of general circulation in Palm Beach County, evidencing the Town's intention to determine whether a majority of the qualified electors of the Town approve of the proposed amendments to the Charter; and

**WHEREAS**, the Town shall comply with the notice requirements; and

**WHEREAS**, the Town Commission finds that the holding of a referendum on the amendments to the Charter set forth below (the "Referendum") furthers the public health, safety and general welfare of the residents and citizens of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:**

**SECTION 1 – Findings of Fact:** The **WHEREAS** clauses set forth above are adopted herein as findings of fact.

**SECTION 2 – Amendment:** Town Charter, Article III "Legislative", Section 3.02 "Qualifications", is amended to read as follows:

**Section 3.02. - Qualifications.**

Any elector of the Town shall be eligible to hold the office of Town Commissioner. The qualifying periods for candidate for Commissioner shall be regulated by Article V of Chapter 2 of the Code of Ordinances of the Town.~~The Commission shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the Town at least one (1) week in advance of the hearing.~~

**SECTION 3 – Amendment:** Town Charter, Article III "Legislative", Section 3.03 "Election and terms", is amended to read as follows:

**Section 3.03. - Election and terms.**

The Commissioners shall hold office for a term of three (3) years beginning immediately after the official certification of the results of the election ~~at noon on the third day after their election~~ and shall continue in office until their term expires and until their successors are elected and qualified. There shall be an annual election of a Commissioner or Commissioners in the manner prescribed in Article V of this Charter, on the second Tuesday in ~~February~~ March of each year (unless this date is required to be changed, by law, to a date concurrent with any countywide or

statewide election or other date), to fill the vacancy or vacancies occasioned by the expiration or early termination (voluntary or involuntary) of the terms of the office of Commissioners.

**SECTION 4 – Amendment:** Town Charter, Article V “Nominations and Elections”, Section 5.01 “Electors”, is amended to read as follows:

**Section 5.01. - Electors.**

Any person who is a resident of the Town who has qualified as an elector of this state and the Town, and who registers in the manner prescribed by ~~general~~ law, shall be an elector of the Town.

**SECTION 5 – Amendment:** Town Charter, Article V “Nominations and Elections”, Section 5.04 “Form of Ballots”, is amended to read as follows:

**Section 5.04. - Form of ballots.**

~~The Commission by ordinance shall prescribe the form of the ballot, including the method of listing candidates for Town Commission election, and any other Town election shall conform to the form of ballots prescribed by law, however, the ballot shall contain no mark or other designation of affiliation of any candidate with any political party or other association or organization. A Charter amendment to be voted on by the Town shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the word "For Yes" and also the word "Against No" with a sufficient blank space thereafter for the placing of the symbol "X" to indicate the voter's choice.~~

**SECTION 6 – Amendment:** Town Charter, Article V “Nominations and Elections”, Section 5.05 “Elections”, is amended to read as follows:

**Section 5.05. - Elections.**

Annual Town elections shall be held on the second Tuesday in ~~February~~ March (unless this date is required to be changed, by law, to a date concurrent with any countywide or statewide election or other date). The election of candidates for the office of Commissioners shall be determined solely on the basis of a plurality of votes cast at the annual election and not be a run-off system of voting. In the case of a tie vote, the winner shall be declared by the flipping of a coin by the Town Clerk.

Procedures to be followed in voting for candidates running for the office of commissioner will depend upon the following: (1) Commission seats vacated by the expiration of the three (3) year term of office; and (2) the early termination or vacancy of a three (3) year term of office caused either voluntarily or involuntarily. Thus, if only one (1) commission seat has expired and is available at the time of an annual election, the candidate receiving the largest number of votes cast shall be declared elected to that commission seat. However, if, for example, two (2) commission seats have expired and are available and one (1) commission seat has been terminated

early or vacated, either voluntarily or involuntarily, and is available at the time of annual election, then the two candidates receiving the largest and next to largest number of votes cast shall be declared to be elected for the two (2) commission seats that have expired in an ordinary manner while the candidate receiving the next largest number or third largest number of votes cast, shall be declared elected for the commission seat terminated early or vacated, and said elected candidate shall serve for the remaining time in this unexpired term of office.

If, for any reason, an elected candidate refused to acknowledge or accept the campaign seat or term of office which he has been elected to, then that commission seat and term of office shall be awarded to the candidate who received the next largest number of votes cast at the annual election, ~~whether the campaign seat or term of office be for Town Commissioner or for Town Mayor.~~

**SECTION 7 – Amendment:** Town Charter, Article VII “Finance and Taxation”, Section 7.02 “Fund transfers; fund equity”, is amended to read as follows:

**Section 7.02. - Fund transfers; fund equity.**

The Town Commission, subject to other provisions of law, may transfer equity from one fund to another fund by Resolution. All undesignated fund equity from the prior fiscal year shall be appropriated in one of the funds established herein. Said appropriations shall be made at least annually, by Resolution, at the time of adoption of the general ~~milage~~ [millage] as established by law.

**SECTION 8.** In accordance with the Florida Constitution, Chapters 101 and 166, Florida Statutes, as amended, the Charter and the Code of Ordinances of the Town, the amendments to the Town Charter contained herein shall be submitted to the qualified electors of the Town of Ocean Ridge, Florida, for the purpose of determining the question of whether the amendments set forth in sections 2 through 7 shall be adopted.

**SECTION 9.** A Referendum Election shall be held in the Town of Ocean Ridge, Florida, on the 12<sup>th</sup> day of March, 2019, to determine whether or not a majority of the qualified electors of the Town of Ocean Ridge, Florida, support the proposed amendments to the Town ’s Charter as set forth above in sections 2 through 7 of this Ordinance.

**SECTION 10.** The Supervisor of Elections of Palm Beach County, Florida, shall determine polling locations or places, and all qualified electors of the Town of Ocean Ridge, Florida, who vote in the Referendum, shall vote at those designated polling places. The polls shall be opened on the date of the Referendum on the proposed Town of Ocean Ridge, Florida, Charter

Amendments from 7:00 a.m. until 7:00 p.m. on the same day. Only the duly qualified electors of the Town of Ocean Ridge, Florida, shall be permitted to vote on this Referendum question.

**SECTION 11.** The Ballot Title shall be as follows:

“OCEAN RIDGE CHARTER AMENDMENTS TO ADDRESS VARIOUS HOUSEKEEPING AND ADMINISTRATIVE ISSUES”

**SECTION 12.** The following question shall be placed on a ballot for consideration by the qualified electors of the Town of Ocean Ridge, Florida. The election ballot question shall read as follows:

SHALL OCEAN RIDGE AMEND ITS CHARTER TO ADDRESS VARIOUS HOUSEKEEPING AND ADMINISTRATIVE ISSUES RELATING TO QUALIFYING PERIODS, FORFEITURE OF OFFICE, COMMENCEMENT DATE OF COMMISSION TERMS, DATE OF ELECTION, QUALIFICATION OF ELECTORS, FORM OF BALLOTS AND CORRECTING SPELLING ERRORS?

YES \_\_\_\_\_

NO \_\_\_\_\_

**SECTION 13.** The Town Clerk of the Town of Ocean Ridge, Florida, is hereby authorized and directed to advertise the Referendum Election in accordance with the Town Charter and Code of Ordinances, and any other applicable law.

**SECTION 14. Codification.** In the event these proposed amendments are approved by referendum, the amendments set forth in sections 2 through 7 shall become and be made a part of the Town Charter of the Town of Ocean Ridge, Florida. The Articles or Sections of these Charter amendments may be renumbered or re-lettered to accomplish such.

**SECTION 15. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 16. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 17. Effective Date.** This Ordinance shall take effect immediately upon adoption. The

provisions of Sections 2 through 7 of this ordinance shall only be effective upon the affirmative vote of the Town electorate approving such measures.

FIRST READING this 1<sup>st</sup> day of October, 2018.


SECOND AND FINAL READING this 5<sup>th</sup> day of November, 2018.

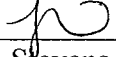
Commissioner Bonfiglio offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner Besler and upon being put to a vote, the vote was as follows:

STEVE COZ, Mayor	<u>Aye</u>
DON MAGRUDER, Vice Mayor	<u>Aye</u>
PHILIP BESLER, Commissioner	<u>Aye</u>
JAMES A. BONFIGLIO, Commissioner	<u>Aye</u>
KRISTINE DE HASETH, Commissioner	<u>Aye</u>

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this 5<sup>th</sup> day of November, 2018.

TOWN OF OCEAN RIDGE, FLORIDA

BY:   
Steve Coz, Mayor

ATTEST:   
Tracey L. Stevens, Town Clerk