

ORDINANCE NO. 07- 06

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA AMENDING SECTION 2-31 " INDUCTION OF MEMBERS INTO OFFICE; OATH", AND CREATING SECTION 2-31.1 " CITY COUNCIL ELECTION DATES; COMMENCEMENT OF TERM;QUALIFYING; VACANCY IN CANDIDACY;EXTENSION OF TERM", REVISING THE REGULAR MUNICIPAL ELECTION DATE FOR THE 2008 AND 2010 ELECTIONS; REVISING THE ELECTION DATE FOR THE 2012 ELECTION AND ELECTIONS THEREAFTER; ESTABLISHING QUALIFYING PERIODS FOR CANDIDATES; PROVIDING PROCEDURES FOR FILLING A VACANCY OF QUALIFIED CANDIDATES CAUSED BY DEATH, WITHDRAWAL, OR REMOVAL FROM THE BALLOT; EXTENDING THE TERMS OF OFFICE FOR THOSE ELECTED IN THE 2008 AND 2010 ELECTIONS; PROVIDING FOR INCORPORATION, CONFLICT AND SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section 1.02 of the Marco Island City Charter empowers the city to adopt, amend, or repeal ordinances, resolutions and codes as may be required for the good governing of the city; and

WHEREAS, pursuant to Section 100.3605(2), Florida Statutes, municipalities are expressly authorized to revise the dates of council elections which are specified in municipal charters by the adoption of an ordinance, and to make corresponding changes to the qualifying period for candidates and the commencement of the term of elected officials, so as to assure an orderly transition of office resulting from such election date changes .

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

Section 1. City Code Amended. That Chapter 2 " Administration " of the City Code

of the City of Marco Island is hereby amended by revising Section 2-31 " Induction of Members Into Office; Oath " , and creating a new Section 2-31.1 " City Council Election Dates; Commencement of Term; Qualifying; Vacancy in Candidacy ; Extension of Term", to respectively, read as follows:

Sec. 2-31 Induction of members into office; oath.¹

Except as provided by Section 2-31.1, the newly elected councilmembers shall take office at noon on the Monday following their election, and shall be inducted into office at a special meeting called for that purpose. At that time, the city attorney or any judicial officer shall administer an oath of office to the newly elected councilmembers. The oath of office shall be as follows:

"I solemnly swear (or affirm) that I will support the Constitution and will obey the Laws of the United States and of the State of Florida; that I will, in all respects, observe the provisions of the Charter and the Ordinances of the City of Marco Island, and will faithfully discharge the duties of the office of City Council."

Section 2-31.1 City Council Election Dates; Commencement of Term; Qualifying; Vacancy in Candidacy; Extension of Term.

(a) **Priority of Provisions** .The provisions of this section 2-31.1 shall control over any conflicting provision of the City Code or Charter to the fullest extent authorized by Sec. 100.3605 (2), Florida Statutes.

(b) **Election Dates** . The regular municipal election shall be held on the last Tuesday in January for the 2008 and 2010 elections, and, beginning with the 2012 election and every election thereafter, the regular municipal election shall be held on the first Tuesday, following the first Monday, in November of even-numbered years.

(c) **Commencement of Terms**. Those persons certified as duly elected in the 2008 and 2010 elections shall take office at the second City Council meeting held in March. Those persons certified as duly elected in the 2012 election, and any election thereafter, shall take office at the next City Council meeting held following the certification of the election results. Terms of office shall remain staggered such that elections to fill four seats shall be conducted during presidential election years and three seats during non-presidential election years .

(d) **Qualifying; Vacancy in Candidacy**.

¹ Proposed addition to existing text of City Code Sec. 2-31 is indicated by underline.

(1) The qualifying period for candidates shall begin at 8:00 a.m. on the tenth Tuesday prior to the election and end at 5:00 p.m. on the eighth Tuesday preceding the election.

(2) If the death, withdrawal or removal of a qualified candidate or candidates following the end of the qualifying period results in the number of candidates remaining on the ballot equal to or less than the vacancies on city council, one (1) supplemental qualifying period shall be established for a period of five (5) days beginning on the first day following the vacancy in candidacy. No further supplemental qualifying period shall thereafter be established and no supplemental qualifying period shall be established at all if a vacancy in candidacy occurs within 30 days prior to the date of the general municipal election. If within 30 days prior to the date of the general municipal election for city council there remains a number of candidates on the ballot equal in number to the vacancies on city council, said candidates shall be declared elected and no election for city council shall be required. In the event that there are less candidates than vacancies following the qualifying period or supplemental qualifying period, said remaining qualified candidates shall be declared elected and City Council shall, within sixty (60) days, by majority vote of the council members seated, appoint a person to fill the vacancy or vacancies until the next regularly scheduled city election at which the seat shall be filled in accordance with Article V of the City Charter .

(e) **Extension of term.** The term of office for those certified as duly elected in the 2008 election shall be extended to the date of the 2012 election. The term of office for those certified as duly elected in the 2010 election shall be extended to the date of the 2014 election.

Section 2. Incorporation, Conflict and Severability.

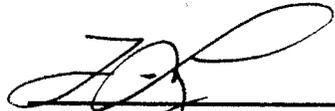
- (1) It is the intention of the City Council and is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Marco Island, Florida and that the sections of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article," or other appropriate word.
- (2) All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict .
- (3) If any word, phrase, clause , subsection, or section of this Ordinance is for any reason held unconstitutional or invalid by a court of competent jurisdiction, the invalidity thereof shall not affect the validity of any remaining portions of the Ordinance.

Section 3. Effective Date.

This Ordinance shall take effect immediately upon adoption.

Passed in open and regular session through roll call vote by the City Council of the City of Marco Island, Florida, this 4th day of September, 2007.

Attest:



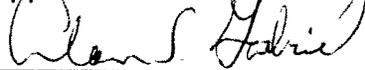
Laura Litzan
City Clerk

CITY OF MARCO ISLAND, FLORIDA

BY: 

Michael P. Minozzi, Jr., Chairman

Approved as to form and legal sufficiency:



City Attorney