

ORDINANCE NO. 2019-21

AN ORDINANCE OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA RELATING TO QUALIFYING TO RUN FOR CITY COUNCIL; AMENDING CHAPTER 22, SECTION 22-2 OF THE CODE OF ORDINANCES RELATING TO THE TIME OF QUALIFICATION FOR MUNICIPAL ELECTIONS; PROVIDING FOR THE REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article IV, Section 1 of the City Charter, provides that candidate qualifying periods shall be established from time to time in the City Code of Ordinances; and

WHEREAS, Section 22-2 of the City Code of Ordinances currently provides that qualifying for elective office of the city shall be no sooner than 12:00 noon on the 89th day, nor later than 12:00 noon of the 75th day before any regular election date; and

WHEREAS, the Florida Legislature passed Senate Bill No. 7066, which, among other things, amends Section 100.061, 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 Brevard County Supervisor of Elections has advised that to accommodate the new schedule for the Fall elections, all qualifying and finalization of the City Council election ballot must be completed by the 78th day prior to the general election; and

WHEREAS, the Brevard County Supervisor of Elections has advised that additional time will be needed in order to provide Spanish-language ballots as directed by Governor Ron DeSantis for the 2020 election and all future elections; and

WHEREAS, this deadline creates a shortfall by three days in reporting qualified candidates to the Supervisor of Elections; and

WHEREAS, the City Council intends to revise the qualifying period to be consistent with the schedule implemented by the Supervisor of Elections; and

WHEREAS, Section 100.3605(2), Florida Statutes (2002), provides:

“100.3605 Conduct of municipal elections.

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(2) 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 CITY COUNCIL OF THE CITY OF WEST MELBOURNE, BREVARD COUNTY, FLORIDA, that:

Section 1. **Findings.** The foregoing “Whereas” clauses are hereby ratified and incorporated as findings of the City Council and as the legislative intent of this ordinance.

Section 2. **Amending the Qualifying Period for Elective Office of the City.** Chapter 22, Section 22-2(a) of the Code of Ordinances of the City of West Melbourne is hereby amended to read as follows (deletions are indicated in strikethrough, and additions in underline):

“Section 22-2. Candidate qualifications period

- (a) Any registered voter of the city who has resided in the city for one year immediately prior to the date of qualification for office may qualify as a candidate for any elective office of the city by presenting his nominating petition signed by (75) qualified voters as certified for the last general election, together with a qualifying fee of \$25.00, to the city clerk no sooner than 12:00 noon on the ~~96th~~^{89th} day, nor later than 12:00 noon of the ~~82nd~~^{75th} day before any regular election date. Under extenuating circumstances, (~~i.e.~~^{e.g.}, declaration of emergency), the city clerk may extend the qualifying period.”

Section 2. **Severability.** In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

Section 3. **Conflicts.** That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

Section 4. **Inclusion in Code.** It is the intention of the City Council of the City of West Melbourne that the provisions of this ordinance shall be made a part of the City of West Melbourne Code of Ordinances and the sections may be renumbered to accomplish such intention.

Section 5. **Effective Date.** That this Ordinance shall become effective immediately upon adoption.

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PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WEST
MELBOURNE, BREVARD COUNTY, FLORIDA, THIS 9th DAY OF SEPTEMBER, 2019.

1st READING: August 20, 2019
2nd READING: September 9, 2019