

ORDINANCE NO. 25-01

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA RELATING TO ELECTIONS; AMENDING SECTION 18-1 OF THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE, FLORIDA; ESTABLISHING DATES FOR THE QUALIFYING PERIOD FOR THE ELECTION OF TOWN COMMISSIONER AND MAYOR AND THE DEADLINE FOR SUBMITTALS OF COMPLETED QUALIFICATION PACKAGES; RESERVING THE ABILITY OF THE TOWN COMMISSION TO DETERMINE AND SET BY RESOLUTION THE DATES FOR THE QUALIFYING PERIOD FOR A SPECIAL ELECTION OF TOWN COMMISSIONER AND MAYOR AND THE DEADLINE FOR SUBMITTALS OF COMPLETED QUALIFICATION PACKAGES; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; REQUIRING PAYMENT OF ANY FILING FEE OR ELECTION ASSESSMENT AT THE TIME OF QUALIFYING; PERMITTING THE TOWN CLERK TO ACCEPT AND HOLD QUALIFYING PAPERS SUBMITTED NOT EARLIER THAN 14 DAYS PRIOR TO THE BEGINNING OF THE QUALIFYING PERIOD; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION; PROVIDING BUSINESS IMPACT ESTIMATE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, as provided in section 166.021(3), Florida Statutes (2024), the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, Section 5.02 of the *Charter of the Town of Dundee, Florida* states that "Candidates for the office of town commissioner or mayor shall qualify for such office by the filing of a written notice of candidacy with the designated official at such time and in such manner as may be prescribed by ordinance;" and

WHEREAS, it is the regular practice of municipalities in Polk County, Florida to permit qualifying during the seventh week prior to election which, in terms of days, is described as the

period beginning at 12:00 noon on the 50th day prior to the election and ending at 12:00 noon on the 46th day prior to the election; and

WHEREAS, Section 99.093, Florida Statutes (2024), imposes an election assessment equal to 1 percent of the annual salary of the office sought; and

WHEREAS, the Town Commission of the Town of Dundee, Florida desires to harmonize Section 18-1 of the *Code of Ordinances of the Town of Dundee, Florida* with the Town's general and ordinary election practices by determining and setting the dates for the qualification period for filing petitions and a written notice of candidacy with the designated official, by reserving the ability to determine and set the dates for the qualification period for a special election by further resolution or ordinance, by requiring that any filing fee or statutory election assessment be collected by the Town Clerk at the time of qualifying, and by permitting the Town Clerk to hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval and adoption of this **Ordinance No. 25-01** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest; and this **Ordinance No. 25-01** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE TOWN OF DUNDEE, FLORIDA:

Section 1. Incorporation of Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the adoption of this Ordinance, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this Ordinance.

Section 2. Amendments to the Code of Ordinances of the Town of Dundee.

The *Code of Ordinances of the Town of Dundee, Florida* is amended as set forth in **Exhibit 'A'**, a copy of which is attached hereto and incorporated herein, to amend Section 18-1 thereof.

Section 3. Conflicts.

All ordinances or parts of ordinances in conflict with any of the provisions of this Ordinance are hereby repealed to the extent necessary to give this **Ordinance No. 25-01** full force and effect.

Section 4. Severability.

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase of this Ordinance, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee, Florida, hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this Ordinance for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this Ordinance shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5. Codification.

It is the intent of the Town Commission that the provisions of **Exhibit ‘A’** to this Ordinance shall be codified as and become and be made a part of the *Code of Ordinances of the Town of Dundee, Florida*. The new provisions in **Exhibit ‘A’** attached to of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word “Ordinance”, or similar words, may be changed to “Section,” “Article”, or other appropriate word. The implementing sections of this Ordinance, Sections 1, 2, 3, 4, 5 and 6 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance. Regardless of whether such inclusion in such codes is accomplished, sections of this ordinance may be renumbered or re-lettered and the correction of typographical or scrivener’s errors which do not affect the intent may be authorized by the Town Manager or his/her designee, without need of public hearing, by filing a corrected or recodified copy of same with the Town Clerk.

Section 6. Business Impact Estimate.

On October 1, 2023, Senate Bill 170 (“SB 170”), *Chapter 2023-309, Laws of Florida*, was enacted amending Section 166.041, Florida Statutes, requiring a local government to prepare a *business impact estimate* before the enactment of an ordinance.

On October 1, 2024, Senate Bill 1628 (“SB 1628”), as codified under *Chapter 2024-145, Laws of Florida*, was enacted and further amends Section 166.041(4), Florida Statutes, by amending the applicable exemptions from the *business impact estimate* requirement(s).

In this instance, this **Ordinance No. 25-01** is enacted and necessary to maintain

consistency with *Chapters 97-106, Florida Statutes*, which is titled and known as the *Florida Election Code*. As such, pursuant to Section 166.041(4)(c)1, Florida Statutes (2024), **Ordinance No. 25-01** is an ordinance required for compliance with federal or state law or regulation and does not require a *business impact estimate*.

Section 7. Effective Date.

This Ordinance shall become effective immediately upon its passage and adoption

INTRODUCED AND PASSED, on First Reading with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 14th day of January, 2025.

PASSED AND DULY ADOPTED, on Second Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this ____ day of _____, 2025.

TOWN OF DUNDEE, FLORIDA

Mayor – Sam Pennant

Attest:

Town Clerk – Lita O’Neill

Approved as to form:

Town Attorney – Frederick J. Murphy, Jr.

ORDINANCE NO. 25-01
EXHIBIT 'A'

AMENDMENT TO THE CODE OF ORDINANCES OF THE TOWN OF DUNDEE,
FLORIDA

In this Exhibit, underlined text is proposed new text and ~~strikeout text~~ is text proposed to be deleted. In the interest of brevity, the omission of unamended text from this Exhibit is intentional and indicated using an ellipsis.

Sec. 18-1. - Nominating candidates by petition; acceptance of candidacy.

- (a) Candidates for the respective offices of town commissioner and of mayor in each election shall be nominated by petition, and there shall be no primary or mass meeting for such purpose.
- (b) Such petition shall in each case be filed with the town clerk ~~not later than 40~~ during a qualifying period beginning at twelve noon 50 days prior to the time of holding such election and ending at twelve noon 46 days prior to the time of holding such election and shall:
 - (1) Contain the name of each candidate;
 - (2) Specify as to each candidate that the candidate is nominated for either the office of town commissioner or mayor, as the case may be; ~~and~~
 - (3) State that the candidate possesses the qualifications required for members of the town commission or mayor; and-
 - (4) Be accompanied by any filing fee or election assessment imposed by general law or local ordinance.
- (c) Such petition shall contain not less than 15 signers. Each elector may subscribe to one nomination for each of the offices to be filled and no more.
- (d) Any person whose name has been submitted for candidacy by such petition shall file with the town clerk ~~not less than 35 days before the election~~ a written acceptance of such candidacy before the end of the qualifying period, which acceptance shall state that, if elected, he will qualify and serve in such office during the term for which he is elected. The town clerk shall, after receiving such acceptance, make and deliver to such candidate a written certificate acknowledging receipt of such acceptance and stating the date of its filing. If any candidate shall fail to file such acceptance before the end of the qualifying period, or if the number of elector subscriptions on file at the end of the qualifying period is less than 15, or if any filing fee or election assessment imposed by general law

or local ordinance is not timely paid by the end of the qualifying period, his name shall not appear upon the ballot.

(e) The town commission may, by resolution or ordinance, determine a different qualifying period for any special election.

(f) Notwithstanding the dates of any applicable qualifying period, the town clerk may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.