

Chapter 9

ELECTIONS*

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*Charter reference—Elections, art. III.

Cross reference—Administration, ch. 2.

State law reference—Florida election code, F.S. chs. 97–106.

Sec. 9-1. General laws to apply.

All elections shall be conducted, except as otherwise specifically provided under this chapter and the Charter, under rules and conditions prescribed by law and shall be subject to the general election laws of the state.

(Code 1980, § 7-7)

Sec. 9-2. Regular and special elections.

Regular town elections shall be held annually on the last Tuesday in April, except as otherwise provided in this chapter. Any matter which by the terms of this chapter may be submitted to the electors of the town at any special election may be submitted and voted upon at a regular town election. If the date of any such election should fall on a legal holiday as designated in F.S. § 683.01, then such election shall be held on the following day. In that event, the time for qualifying as a candidate pursuant to section 9-4 of the Code of Ordinances of the Town of Havana shall be adjusted accordingly.

(Code 1980, § 7-1; Ord. No. 288, § 1, 7-29-97; Ord. No. 306, § 1, 6-25-02)

Charter reference—Runoff election, § 3.01.

Sec. 9-3. Notice of election.

The town council shall proclaim any general or special election, stating the different offices to be filled or questions to be decided. The notice of such election shall be published once each week for two consecutive weeks preceding the date of election in a newspaper published in the town.

(Code 1980, § 7-3)

Sec. 9-4. Time for qualifying as candidate.

Any person who is a resident and elector of the town and who is qualified pursuant to the Charter may become a candidate for the town council by filing an application with the town clerk not more than 43 days prior to the election nor later than noon 39 days prior to the election.

(Ord. No. 306, § 2, 6-25-02)

Charter reference—Qualification of candidates, § 2.02.

State law references—Municipal candidate assessment fee, F.S. § 99.093; campaign financing act, F.S. ch. 106.

Sec. 9-5. Candidate to specify group.

A candidate for elective town office shall state in the application filed with the town clerk the group for which he wishes to qualify as a candidate.

Charter reference—Group designation for qualifying, § 3.01.

Sec. 9-6. Vacancy in candidacy for town council.

(a) *When withdrawal leaves one candidate.* If the withdrawal of a qualified candidate following the end of the qualifying period results in only one candidate remaining on the ballot for that office, the remaining candidate shall be declared elected and no election for that office shall be required.

(b) *When death or removal leaves one candidate.*

- (1) If the death or removal from the ballot of a qualified candidate following the end of the qualifying period results in only one candidate remaining for that office, a special election shall be scheduled by the town council not less than 60 days nor more than 120 days after the vacancy in the candidacy has occurred.
- (2) If a special election is called pursuant to subsection (b)(1) of this section, a supplemental qualifying period shall be established beginning on the day the vacancy in the candidacy has occurred and ending at 5:00 p.m. on the 32nd day prior to the date of the special election. Any candidate wishing to qualify during this supplemental qualifying period shall file the qualifying application in accordance with the Charter and Code prior to the end of the supplemental qualifying period.
- (3) The remaining candidate for that office shall not be required to requalify for election or pay a second qualifying fee. The remaining candidate shall not be declared an unopposed candidate under F.S. ch. 106 unless no additional candidate qualifies for election during the supplemental qualifying period. The remaining candidate may continue to accept contributions until he is declared unopposed. If he is declared unopposed pursuant to this section, he shall be declared elected and the special election shall be canceled.
- (4) The filing of campaign expense statements pursuant to F.S. ch. 106 by candidates in a special election called under subsection (b)(1) of this section, including the remaining candidate, shall not be later than such dates as fixed by the town clerk. In fixing such dates, the town clerk shall take into consideration and be governed by the practical time limitations and the dates established for such statements in a regular town election.
- (5) If a special election is called pursuant to subsection (b)(1) of this section and other candidates qualify for election during the supplemental qualifying period, supplemental absentee ballots for the special election shall be mailed by the town clerk to any absentee voter who was mailed an absentee ballot for the regular election. If an absentee voter returns the initial ballot he was mailed, his vote for that office for which the special election was called will be null and void, but his votes on all other offices and issues shall be counted.

(c) *When death, withdrawal or removal leaves no candidates.*

- (1) If the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period results in no candidates for an office, and more than

21 days remain prior to the date of the election, qualifying shall be reopened to allow candidates to qualify for the election to that office in accordance with the Charter and Code. Any candidate wishing to qualify shall file the qualifying application in accordance with the Charter and Code no later than 5:00 p.m. of the 21st day prior to the date of the election. The town clerk shall promptly post notice at the town hall in a conspicuous place of the reopening of the qualifying period.

- (2) If less than 21 days remain to the election after the death, withdrawal or removal from the ballot of the lone qualified candidate for an office, and if a vacancy shall result on the town council, the remaining councilmembers shall appoint by majority vote a person otherwise qualified to be a councilmember, and the person so appointed shall serve as councilmember for the entire term. If the council does not appoint a person to fill the vacancy within 30 days after the first regular council meeting held after the vacancy has occurred, a special election shall be held in order to fill the vacancy for the unexpired portion of the entire term. The special election shall be held not less than 30 days nor more than 90 days after the initial 30-day period has expired.
- (3) If the qualifying period is reopened pursuant to subsection (c)(1) of this section, supplemental absentee ballots reflecting the new candidates who have qualified for that office only shall be mailed by the town clerk as soon as possible to any absentee voter who was mailed an absentee ballot. If an absentee voter returns the initial ballot he was mailed, his vote for the office for which qualification was reopened will be null and void, but his votes on all other offices and issues shall be counted.
- (d) *Name not to be printed on ballot.* The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void.
- (e) *No refund of qualifying fee.* A candidate withdrawing or being removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.
- (f) *Official to perform duties.* Any or all of the duties prescribed above to be performed by the town clerk may be performed by the county supervisor of elections if the town council so directs by contract with the county supervisor of elections.
(Ord. No. 251, § 1, 4-28-92)

Sec. 9-7. Ballots.

The ballots for town elections shall conform as nearly as possible to the form of ballots prescribed by the general election laws of the state.
(Code 1980, § 7-6)

State law reference—Ballots, issuance, F.S. §§ 101.011, 101.5609.

Sec. 9-8. Polling places.

The town council shall designate polling places wherein all duly qualified electors may vote for the respective issues of the election and respective candidates for councilmember.
(Code 1980, § 7-4)

State law references—Polling places, F.S. §§ 98.031(1), 101.71.

Sec. 9-9. Voting equipment.

Voting equipment which complies with the general election laws of the state may be used at all town elections. The requirements of the general election laws of the state in reference to the operation of voting equipment, the fixing of ballots thereon and the holding of elections with voting equipment shall be complied with.

(Code 1980, § 7-2)

State law references—Use of county-owned voting machines by municipality, F.S. § 101.36; voting, conduct of elections where voting equipment used, F.S. ch. 101.

Sec. 9-10. Supervising agency and use of county supervisor of elections.

The town council shall make all necessary arrangements for holding municipal primary elections, regular municipal elections and special municipal elections and shall declare the results. The council may instruct the clerk to conduct elections or may contract with the supervisor of elections of the county to conduct elections in which case the city is authorized to pay the expenses of such elections.

Sec. 9-11. Appointment of inspectors and clerks.

Inspectors and clerks of elections shall be appointed by the town clerk or the supervisor of elections of the county.

State law references—Inspectors', clerks' duties, etc., F.S. §§ 100.271, 102.012.

Sec. 9-12. Absentee ballots.

Provisions for absentee voting in any general or special election in the town shall be as provided by general election laws of the state.

State law reference—Absentee ballots, F.S. §§ 101.62–101.69.

Sec. 9-13. Canvass of returns and certificate of results of canvass.

The canvassing board shall consist of three members of the town council appointed by the mayor. The canvassing board shall begin the canvassing of ballots not later than noon on the day following an election. The canvassing board shall immediately certify the results of the canvass, and make a final proclamation of the results of the election. A certification of the election shall be placed in the town's records, and copies shall be posted in the town hall. Such certification shall state the results of the vote on all matters on the ballot and shall proclaim those persons receiving the highest number of votes for each office as elected.

Sec. 9-14. Tie votes.

In the event of a tie vote, the one who shall be declared elected shall be as provided by general election laws of the state.

Charter reference—Runoff, § 3.01.

State law reference—Tie votes, F.S. § 101.091(3).

Sec. 9-15. Oath of office.

All councilmembers shall, before entering upon their duties, take the following oath before some officer authorized by law to administer oaths in the state as follows:

I, _____, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and government of the United States, and of the State of Florida, against all enemies, domestic and foreign, and that I will bear true faith, loyalty and allegiance to the same; that I am entitled to hold office under the Constitution of the State and the provisions of the Town Charter and I will faithfully perform all the duties of the office to which I have been elected (or appointed) and on which I am about to enter.

(Laws of Fla. ch. 9966(1923), § 42)

State law reference—Oath, F.S. § 876.05.

