

ARTICLE V. - ELECTIONS

Section 5.1. - Municipal Elections.

- A. *Holding elections[.]* The regular election for members of the commission and mayor shall be held on the first Tuesday after the first Monday in November of each even numbered calendar year. The commission shall order special elections on other dates to fill vacancies on the commission when such elections are mandatory under this charter. Special elections may also be called on at least thirty (30) days notice at any time to validate general obligation bond issues, to ratify a new charter or amend a current one, to initiate ordinances or secure an expression from the electors on referred ordinances in the manner prescribed in this charter, or for any or all other lawful purposes.
- B. *Regulation of elections.* The commission shall by ordinance establish such rules and regulations as it considers needful or desirable, not inconsistent with this charter, governing the conduct of municipal elections, for the prevention of fraud in such elections, and for the recount of ballots in case of doubt or fraud. Municipal elections shall be supervised by the city clerk and conducted by an election board consisting of an election clerk and two (2) or more qualified electors for each precinct appointed by the commission who shall act as inspectors of the election.
- C. *Registration of voters; compliance with ordinances and laws[.]* Elections and maintenance of voters registration lists shall be conducted in accordance with the ordinances of the city and the laws of the State of Florida.
- D. *Regular elections of mayor and commissioners; run-off elections; qualifications of voters; conduct to conform to statutes.*
- (1) A general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to the elective office of mayor or commission where said are expiring, unless the general election being conducted by the Miami Dade County Elections Department is held on another day, in which case the Opa-locka election shall be held on the same day. The candidate for mayor receiving highest number of ballots cast shall be deemed the duly elected mayor. The two (2) candidates for commission receiving the highest number of votes cast for commission shall be deemed duly elected. In any special election to fill an unexpired term on the Commission, the candidate receiving the highest number of votes shall be deemed duly elected.
 - (2) Any person who shall possess the qualifications requisite to be an elector at the general state election and shall have resided in the City of Opa-locka more than forty-five (45) days next preceeding the city election at which he offers to vote, and shall have registered with the elections division of Miami Dade County, shall be a qualified elector of the city.
 - (3) Any person who shall be a qualified elector of the city and who shall have resided in the City of Opa-locka more than 365 days prior to the day of the election at which the said person seeks to qualify as a candidate for the office of commissioner or mayor shall be qualified as candidate to seek the office of commissioner or mayor.
 - (4) All elections held in the City of Opa-locka shall be conducted and held according to the provisions of the general election laws of the State of Florida, except as otherwise provided for in the Charter of the City of Opa-locka and except that the City Commission shall be substituted for a board of county commissioners.
 - (5) The name of any elector of the city shall be printed upon the ballot as a candidate for nomination to the office of commissioner or mayor of the City of Opa-locka the sum of two hundred fifty dollars (\$250.00) being deposited with the Clerk of the City of Opa-locka at the time of seeking qualifications as a qualifying fee for such candidate to the office of commissioner or mayor of the City of Opa-locka, Florida.

The qualification period for elector candidates for the office of mayor and commissioner shall commence at 9:00 a.m. on the first Monday in August of each even-numbered year, and continuing until 12 noon on the Friday which is eleven (11) days after the commencement date.

Each elector shall submit concurrently there with a sworn statement of the elector's name, address together with a statement under oath as to residency in the City of Opa-locka for more than 365 days prior to the date of election sought for qualification as a candidate, occupation and willingness to serve if elected.

- (6) The word "resident" and all of its derivatives shall mean that a person shall be considered as such when he actually lives in a house, trailer, or an apartment within the boundaries of the City of Opa-locka. The Supervisor of Elections is required to request proof of residency including but not limited to homestead exemption, driver's license, motor vehicle registration, voter's registration card, lease agreement, from anyone who applies to qualify as a candidate for the office of commissioner or mayor. A business address or location shall not entitle a proposed candidate or elector to be considered as a "resident".
- E. *Form of ballots; listing of candidates.* All ballots used in any regular, special or general election of commissioners or mayor held under authority of this charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon, and shall be substantially in the same form as the election ballot used in all general state elections. The following additional provisions with respect to ballots used in any general or special election of commissioners [or mayor] shall also apply:
- (1) The full names of all candidates nominated for the commission or mayor as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots. If two (2) candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residence may be placed with their names on the ballot.
 - (2) The names of the candidates shall be arranged in the alphabetical order of their surnames.
 - (3) Where voting machines are not used, commissioners or mayor shall be voted for on ballots separate and distinct from ballots used for any other office or question, and the ballot boxes used for the election of commissioners or mayor shall be separate and distinct from ballot boxes used for any other office or question.
 - (4) When voting machines are used, the laws of the State of Florida shall apply, and the form of the ballot shall be modified to conform thereto.
- F. *What commissioners declared elected; how tie vote decided.* At any regular municipal election held under the provisions of this charter, the candidates for the office of commissioner, in number equal to the number of commissioners to be elected, who shall have received the greatest number of votes cast, shall be declared elected. The candidate for Mayor receiving the greatest number of votes cast shall be declared elected. A tie between two (2) or more candidates for the office of commissioner shall be decided by a run-off election to be held within thirty (30) days of the certification of the results of the regular election. Similarly, a tie between two or more candidates for mayor shall be decided by a run-off election to be held within thirty (30) days of the certification of the results of the regular election. No runoff shall be held less than twenty-one (21) days after the regular election.
- G. *Candidacy of incumbent commissioner and mayor.* If an incumbent commissioner qualifying for nomination and election to the office of mayor or an incumbent mayor qualifies for nomination and election to office of commissioner resigns to run as required herein or by State law, the remaining term of his office becomes vacant thereby, and said vacancy shall be filled in accordance with the procedure set forth in this Charter.

(Res. No. 12-8434, § 2, 7-18-12)
Section 5.2. - Initiative and Referendum.

(A) *Power to Initiate and Reconsider Ordinances.*

- (1) *Initiative.* The electors of the City shall have the power to propose ordinances to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt it at a City election, provided that the required signatures in Sec. 5.2(c)(1) have been met and provided that such power shall not extend to the annual budget or

capital program or any ordinance appropriating money, levying taxes or setting salaries of City officers or employees.

- (2) *Referendum.* The electors of the City shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a City election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of city officers or employees.
- (B) *Commencement of Proceedings.* A minimum of ten electors may commence initiative or referendum proceedings by filing with the City Clerk an affidavit (the "Affidavit") stating they will constitute the petitioners' committee (the "Committee") and be responsible for circulating the petition (the "Petition") and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the Affidavit of the Committee is filed, the City Clerk shall at the Committee's request, issue the appropriate Petition blanks to the Committee at the Committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the City Attorney prior to circulation.
- (C) *Petitions.*
- (1) *Number of Signatures.* Initiative and referendum petitions must be signed by at least ten (10) percent of the total number of electors registered to vote at the last regular City election.
 - (2) *Form and Content.* All pages of a Petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by a printed name and address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
 - (3) *Affidavit of Circulator.* Each page of a Petition shall have attached to it when filed an affidavit executed by the circulator stating that s/he personally circulated the page, the number of signatures contained, that all the signatures were affixed in his/her presence that s/he believes them to be genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
 - (4) *Filing Deadline.* All Petitions must be filed within 60 calendar days of the date a proper Affidavit is filed pursuant to subsection (B) of this section.
- (D) *Procedure for Filing.*
- (1) *Certificate of Clerk; Amendment.* Within 20 calendar days after an initiative Petition is filed or within five business days after a referendum Petition is filed, the City Clerk shall verify all signatures required for initiatives or referendums with the Miami-Dade Supervisor of Elections and complete a certificate as to its sufficiency ("the Certificate"). If insufficient the Certificate shall specify the particulars of the deficiency. A copy of the Certificate shall be promptly sent to the Committee by registered mail. Grounds for insufficiency are only those specified in subsection (C) of this Section. A Petition certified insufficient for lack of the required number of valid signatures may be amended once if the Committee files a notice of intention to amend it with the City Clerk within two calendar days after receiving the copy of the Certificate and files a Supplementary Petition ("Supplementary Petition") with the City Clerk with additional valid signatures within ten calendar days after receiving the copy of such Certificate. Such Supplementary Petition shall comply with the requirements of subsection (C) of this Section. Within five business days after a Supplementary Petition is filed the City Clerk shall, after verifying signatures with Miami-Dade County Supervisor of Elections, complete a Certificate as to the sufficiency of the Petition as amended ("Amended Petition") and promptly send a copy of such Certificate to the Committee by registered mail. If a Petition or Amended Petition is certified sufficient, or if a Petition or Amended Petition is certified insufficient and the Committee does not elect to amend or request Commission review under paragraph (2) of this subsection within the time required, the City Clerk shall promptly present his/her certificate to the Commission and such Certificate shall then be a final determination as to the sufficiency of the petition.

- (2) *Commission Review.* If a Petition has been certified insufficient and the Committee does not file notice of intention to amend it or if an Amended Petition has been certified insufficient, the Committee may, within two calendar days after receiving the copy of such Certificate, file a request with the City Clerk that it be reviewed by the Commission. The Commission shall review the Certificate at its next regularly scheduled meeting following the filing of such request and approve or disapprove it. The Commission's determination shall then be a final determination as to the sufficiency of the Petition.

(E) *Action on Petitions.*

- (1) *Action by Commission.* When an initiative or referendum Petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within 45 calendar days or fails to repeal the referred ordinance within 30 calendar days, it shall submit the proposed or referred ordinance to the electors of the City. If the Commission fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in this paragraph, the Commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Commission was authorized to act on such matter.
- (2) *Submission to Electors.* The vote of the City on a proposed or referred ordinance shall be held not less than 30 calendar days or more than 60 calendar days from the date the Commission acted or was deemed to have acted pursuant to paragraph (1) of this subsection. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election. Copies of the proposed or referred ordinance shall be made available at the polls.
- (3) *Referendum.* See [subsection] F(2)

(F) *Results of Election.*

- (1) *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar may not be submitted in accordance with this Article for at least one year from the date of the election.
- (2) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote for repeal, the repealed ordinance shall be considered repealed upon certification of the election results.

(Res. No. 12-8434, § 2, 7-18-12)