

CHAPTER VII

ELECTIONS*

7-1 GENERAL LAW OF STATE ADOPTED.

The general law of the State of Florida as it pertains to elections in every particular is hereby adopted and shall govern the conduct of elections in every particular and in every respect. (Ord. No. 827 § 1, 3-4-58; Ord. No. 80-68 § 2, 1-6-81; 1957 Code § 7-1)

7-2 POLLING PLACES ESTABLISHED; HOURS.

7-2.1 Established by Resolution.

At least sixty (60) days prior to each City election the City Clerk shall recommend polling place locations to the City Council. The City Council shall select a number of polling places as required and designate same by resolution at least thirty (30) days prior to each City election. Factors to be considered in the selection of polling places shall include, but are not limited to, location of polling places established by the County, location of residences within the City, convenience and access to the polls by residents. (Ord. No. 80-68 § 5, 1-6-81; 1957 Code § 7-3)

7-2.2 Hours Open to Public.

The polling places shall be open from 7:00 a.m. to 7:00 p.m. (Ord. No. 80-68 § 5, 1-6-81; 1957 Code § 7-3)

7-3 ELECTION BOARD.

An Election Board is hereby constituted to serve for each election held in the City. The Board shall consist of one (1) chief clerk, one (1) deputy sheriff to serve at each polling place, and election clerks and/or inspectors as needed. Not less than twenty (20) days prior to the date of each City election, the City Council shall designate the individuals who are to serve on the Election Board. The duties of the Election Board shall be those set forth in the general laws of the State of Florida pertaining to the conduct of elections. The members of the Election Board shall be compensated for their services by the City in an amount to be fixed by the City Council. (Ord. No. 827 § 9, 3-4-58; Ord. No. 80-68 § 6, 1-6-81; 1957 Code § 7-4)

7-4 POLL WATCHERS, METHOD OF DESIGNATION; ISSUANCE OF CREDENTIALS.

Each candidate for election may designate a watcher to serve on election day at each polling place. The candidates shall designate in writing to the City Clerk the individuals who will serve as watchers and may designate alternates for each watcher not less than fourteen (14) days prior to the date of the election. The names and addresses of the watchers and their respective alternates shall be furnished to the City Clerk, and the City Clerk shall furnish to each watcher, or his alternate, proper identification which will admit the watcher to the polling

* Charter reference—Elections, §§ 9-20.

Cross reference—Political signs, § 24-147.2(D).

State law reference—State absentee voting law may be adopted by a municipality, F.S.A. (1966) § 101.6101, Mail Ballot Election Act.

places. No watcher or alternate will be admitted to the polling places without the identification issued by the City Clerk. The duties of the watchers are set forth in and limited by Section 101.131 Florida Statutes. (1957 Code § 7-5; Ord. No. 827 § 10, 3-4-58; Ord. No. 80-68 § 7, 1-6-81)

7-5 QUALIFICATIONS FOR CITY COUNCILPERSONS.

a. Prospective candidates for the Office of Mayor or Councilperson shall:

1. Be a qualified elector of the City at the time of filing for the position;
2. Not have been convicted in this or any other State of any offense involving moral turpitude within the preceding five (5) years;
3. Not have been adjudicated insane or incompetent by a court of competent jurisdiction which adjudication stands unrevoked;
4. Be a bona fide resident of the City of North Miami Beach and express an intent to remain permanently a bona fide resident of the City during the entire term of office for which he or she is a candidate.

b. All elected officials of the City of North Miami Beach, in order to remain in office during the term for which they were elected, must always be and remain bona fide residents of the City of North Miami Beach.

c. The term "bona fide resident" shall mean a permanent, fixed place of domicile within the City of North Miami Beach, to the exclusion of all other places.

d. Should any elected official of the City of North Miami Beach, during his term of office, change his bona fide residence from within to without the City of North Miami Beach, his seat on the Council shall be automatically vacated and forfeited.

e. A vacancy shall be filled in accordance with Section 7-7 of the Code of Ordinances of the City of North Miami Beach.

(Ord. No. 217 § 5, 9-5-50; Ord. No. 354 § 1, 3-19-54; 1957 §§ 2-1, 2-3, 7-6; Ord. No. 63-20 § 1, 10-15-63; res. No. R75-14 § 1, 3-11-75; Ord. No. 80-68 § 9, 1-6-81)

7-5.1 Candidates-Finger-printing; Election File for All Candidates.

a. As a condition of qualification for office, all candidates for public office in the City of North Miami Beach shall be fingerprinted by the North Miami Beach Police Department and such fingerprints shall be sent to the Florida Department of Law Enforcement to be processed as hereinafter provided and a copy kept on file with the City Clerk. Proof of said fingerprinting must be submitted to the City Clerk at the time of filing for the position.

b. All candidates fingerprints and/or names shall be processed as hereinafter provided by the City Clerk which results shall be made part of a public election file, said results shall be kept on file by the Office of the City Clerk.

c. Should any candidate as above set forth refuse to be properly fingerprinted, and/or photographed, the City Council shall have authority to dismiss from the Council any member thereof and shall refuse to acknowledge the qualifications of any candidate for public office of the City.

d. All such photographs, fingerprints and/or names of individuals previously fingerprinted hereunder shall be forwarded to the Florida Department of Law Enforcement for processing and clearances.

(Ord. No. 91-29 §§ 2-2; 2-3, 10-1-91; Ord. No. 2010-27, 11-16-10)

7-6 RUN-OFF ELECTION.

In the event of a tie between candidates for an elective office in any run-off election, the City Clerk shall place a black ball and a white ball of

the same size in a closed container and each candidate shall draw one (1) ball from the container. The candidate drawing the white ball shall be declared the winner of the election and entitled to occupy the office. (1957 Code § 7-7; Ord. No. 827 § 12, 3-4-58; Ord. No. 80-68 § 10, 1-6-81)

7-7 VACANCY IN CANDIDACY, ELECTIVE OFFICES.

a. If the death, withdrawal or removal of a qualified candidate following the end of the qualifying period results in only one (1) 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. *Authority of Council.* Vacancies in elective offices of the City shall be filled by the City Council pending the next election, at which an election to fill the vacancy shall be held for the unexpired term.

c. *Special Election Required.* Paragraph a. is conditioned, however, that should any vacancy occur more than one (1) year prior to the next general election, the council shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than thirty-five (35) days nor more than sixty (60) days after such vacancy has occurred or as soon thereafter as Miami-Dade County Election procedures allow. When a vacancy is filled by the City Council, it shall be done in such manner as shall be provided by the rules of the Council, or as provided by separate ordinance.

d. *Charter, Code Provisions Applicable.* Whenever the context can apply, the various provisions of the City Charter of the City of North Miami Beach as they provide for the rules and regulations of general City elections are, by reference, incorporated and made part of this section as if fully set out herein. with particularity, the provisions pertaining to the

manner of holding the elections; the matters of qualified electors; qualification of Councilmembers; campaign contributions; expenditures; treasury and depository; report; conduct of election; violations; registration books polling places established, (hours); election board; poll watchers; method of designation; issuance of credentials; machines; tie elections; forms approved by the Council; penalty; all as provided for in Chapter VII, and Article III, Sections 9 through 17 of the City Charter as set out in the Code of Ordinances of the City of North Miami Beach, be and the same are hereby incorporated herein, by reference, and are declared to be the generic law of the City as it pertains to the holding of special elections pursuant to Section 19 of the City Charter.

e. *Rules, Regulations for Special Elections.* As to those portions of Section 9 and Section 11 of the City Charter, wherein the context cannot apply, and which refer to the dates upon which elections shall be held and the qualifying time periods as they pertain to candidates, the following rules and regulations are declared to be the generic law of the City with respect to same:

1. *Procedure Generally.* The Council shall, by ordinance, call for a special election within the time required by Section 19 and in said ordinance shall set a definite date to hold such election; and if a clear majority be not obtained by any given candidate, to provide for the date of a run-off among the two (2) candidates receiving the highest number of votes for such office; provided however, that the date set for the election shall not be less than thirty-five (35) days nor more than sixty (60) days from the date that the election is called or as soon thereafter as Miami-Dade County election procedures allow. The candidate receiving a majority of the votes in such special election or run-off election shall be declared elected.

2. Notice to be Published. Notice to the public shall be published one (1) time in a local newspaper, notifying the residents of the City of North Miami Beach of the date upon which the books shall be closed and to issue warning that anyone desiring to register for the ensuing special election, and who are so qualified to do under the law, register prior to the closing of the books aforesaid.

3. Qualification of Candidate. Candidates for office as it pertains to special elections shall qualify with the Clerk of the City not less than thirty-eight (38) days prior to the special election date. Each and every and all of the balance of Section 11 of the Charter shall apply herein, since the context does apply.

4. Closing Registration Books. The voting registration books of the City shall be closed pursuant to state election laws prior to such special election date.

(1957 Code §§ 2-8, 7-7.1; Ord. No. 63-4 §§ 1-4, 5-17-63; Ord. No. 69-18 § 1, 9-2-69; Ord. No. 77-13 § 10, 8-16-77; Ord. No. 78-5 § 12, 2-21-78; Ord. No. 91-5 § 2, 2-19-91)

7-8 CANDIDATE FORMS.

a. Each candidate, upon qualification with the City Clerk, shall execute a form prepared by the City Clerk and approved by the City Council, which form shall be similar to those used for State and County Elections and shall include an oath of qualification for office and the name and address of the candidate's campaign treasurer.

b. At the end of the qualifying period, candidates shall file with the City Clerk three (3) campaign reports prior to the date of the election. They shall be filed on the 32nd day, the 18th day and the 4th day prior to the date of the election. A final certified termination

report shall be filed as required by the state of Florida election laws.

c. Each candidate shall be required to execute and file all forms prescribed by the Florida Statutes.

(1957 Code § 7-8; Ord. No. 91-29, 10-1-91)

7-9 QUALIFICATION FEES OF CANDIDATES; PAYMENT.

The qualification fee for all candidates for City Councilmember and for office of Mayor of the City is fixed at four (4%) percent of the annual salary of the office as provided by Section 11 of the Charter of the City of North Miami Beach.

Such qualification fee shall be paid by the candidate to the City Clerk at the time such candidate applies for his/her position.

No person shall have his name printed as such candidate on any election ballot unless and until such fee shall have been paid at the time of applying for his/her position.

All such qualification fees shall be deposited in the general revenue fund of the City. (Ord. No. 110 § 4, 2-6-45; 1957 Code § 2-12)

Charter reference—For provisions relating to elections, see Charter §§ 9-20 inclusive.

7-10 PENALTY.

Any person who violates any of the laws of the State of Florida governing elections, the provisions of this Code or of any ordinance of the City pertaining to elections, shall, upon conviction, be fined a sum not to exceed five hundred (\$500.00) dollars for each violation or be sentenced to a jail term of not more than sixty (60) days for each violation. (1957 Code § 7-9; Ord. No. 827 § 14, 3-4-58; Ord. No. 80-68 § 13, 1-6-81)

7-11 RECALL ELECTION, AFFIDAVIT, MINIMUM STANDARDS.

a. The affidavit required under Section 18 of the Charter as set out in Part I of this Code shall charge the elected official or officials with specific acts or omissions which would constitute either malfeasance, nonfeasance, misfeasance, drunkenness, conviction of a crime, breach of trust, incompetence, or general conduct unbecoming an officer or officers of the City, with such particularity as to enable the officer or officers so charged to understand the charge being made against him or them.

b. Such an allegation or allegations made by a qualified elector of the City setting forth the act or omission which constitutes the basis for the recall of the officer or officers shall be alleged as true within the knowledge of the affiant.

c. The affidavit must allege that the charges therein are based upon the personal knowledge of the affiant and that the affidavit shall not be predicated upon mere information and belief.

d. The affidavit must be filed in good faith and not predicated upon malice, whim or caprice.

e. In the event that the affiant uses any extraction of the public record in order to charge the elected official or officials with specific acts or omissions which would constitute the basis for a recall of the officer or officers, then in that event, the affiant shall use the entire public record in reference to the specific acts or omissions that the officer or officers are charged with.

(1957 Code § 7-10; Ord. No. 60-8 §§ 1-5, 2-2-60; Ord. No. 80-68 § 14, 1-6-81)

7-12 INITIATIVE PROCEDURE.**7-12.1 Procedure.**

Initiative petitions for the adoption of any ordinance by the qualified electors of the City of North Miami Beach shall be executed as follows:

A petition to the City Council for the enactment of the ordinance and its submission at an election as authorized by the Charter of the City of North Miami Beach shall be typed or printed upon bond paper of twenty (20) pound substance of legal size (8 1/2" x 14") with the typing or printing along the shorter dimension. The first part of the petition, or of each petition circulated, shall contain the full text of the proposed ordinance which the petitioners desire to have enacted by the City Council and submitted for approval of the qualified electors. Following the text of the ordinance on as many pages as may be required to contain the full text of the proposed ordinance spaces shall be provided for names and addresses of petitioners. The name of each petitioner shall be signed substantially in the same manner as such name appears in the registration records of the City and the address of the petitioner shall be inserted following the signature and to the right thereof. Each petition may contain as many pages of signatures as may be necessary provided that all of such pages shall be firmly affixed to that portion of the petition which contains the text of the proposed ordinance. (1957 Code § 7-11; Ord. No. 64-7 § 3, 4-7-63; Ord. No. 80-68 § 14, 1-6-81)

7-12.2 Signatures; Presence of Person Circulating.

Petitions shall be signed in the presence of the person circulating the petition, which signatures shall be in ink or indelible pencil. Each person circulating an initiative petition shall make oath that the petition circulated by him was signed in his presence by the persons

whose signatures appear on the petition and that such signatures are to the best of his knowledge and belief the true signatures of the persons whose names appear thereon. (1957 Code § 7-11; Ord. No. 64-7 § 3, 4-7-63; Ord. No. 80-68 § 14, 1-6-81)

7-12.3 Substantial Compliance Required.

The above provisions, other than the requirements relating to the full text of the proposed ordinance, shall be directory only and substantial compliance with the provisions of this section shall be sufficient. (1957 Code § 7-11; Ord. No. 64-7 § 3, 4-7-63; Ord. No. 80-68 § 14, 1-6-81)

7-13 CHARTER AMENDMENTS; IMPLEMENTATION OF SECTION 5.03 OF MIAMI-DADE COUNTY HOME RULE CHARTER.

a. This section is created for the purpose of implementing the provisions of Section 5.03 of the Miami-Dade County Home Rule Charter, entitled "Municipal Charter"; and to establish the rules, regulations, and criteria as it pertains to the petition-method referred to in Section 5.03.

b. Any qualified electors of the City who desire to exercise the right of petition as provided for in Section 5.03 of the Miami-Dade County Home Rule Charter, shall:

1. Submit the petition to the City Council which shall, without delay, approve same, as to form, for circulation in one (1) or several copies as the proposer may desire. Each petition shall contain the full text of the proposed legislation.

2. The person or persons circulating the petition shall, within ninety (90) days or less of the approval of the form of the petition, obtain the signature of qualified electors in numbers at least equal to

ten (10%) percent of the qualified electors of the City of North Miami Beach. Each signer of a petition shall place thereon, after his name, the date and his place of residence. Each person circulating a copy of the petition shall attach to it a sworn affidavit stating the number of signers and the fact that each signature was made in the presence of the circulator of the petition. There shall be no extensions or additional time allowed for the gathering of signatures beyond the ninety (90) day period provided for herein.

c. The signed petition shall be filed with the City Council, which shall within thirty (30) days order the City Clerk to canvass the signatures thereon to determine the sufficiency of the signatures. If the petition or petitions are determined to be sufficient, the Clerk shall forthwith so certify.

d. All other of the provisions of Section 5.03 of the Miami-Dade County Home Rule Charter are hereby incorporated into this section made a part hereof as if fully set out herein. (1957 Code § 2-7; Ord. No. 62-17 §§ 1-3; 11-20-62; Ord. No. 2004-12, 9-14-2004; Ord. No. 2006-26, 1-16-2007)

7-14 EARLY VOTING.

a. Pursuant to Section 100.3605(1), Florida Statutes, it is hereby provided that commencing with the May 2005 municipal election(s) for Mayor and City Council offices, all Mayor and City Council election(s) are hereby exempted from the provision of Section 101.657(1)(b), Florida Statutes.

b. In lieu of the above-described provisions of Section 101.657(1)(b), Florida Statutes, it is hereby provided that early voting shall be provided at North Miami Beach City Hall as follows: Thursday, April 28, 2011 through Sunday, May 1, 2011. Voting hours shall be from 10:00 a.m. to 6:00 p.m. Thursday and

Friday, and from 2:00 p.m. to 6:00 p.m. on Saturday and Sunday. If a Runoff Election occurs, early voting will be provided on Thursday, May 12, 2011 and Friday May 13, 2011, from 10:00 a.m. to 6:00 p.m., as feasible, based upon information by the Miami-Dade County Supervisor of Elections Office.

c. Reserved.

d. The remaining paragraphs of Section 101.657, Florida Statutes, exclusive of paragraph (1) (b) thereof, shall continue to apply to the City's Mayor and City Council elections as provided by law.

e. The City Clerk is hereby authorized to take any action which is necessary or expedient to implement early voting in accordance with this section.

(Ord. No. 2005-5 § 2, [Sec. 2-9] 4-5-2005; Ord. No. 2007-1 § 2, [Sec. 2-9] 2-20-2007; Ord. No. 2009-4 § 2, 3-3-09; Ord. No. 2011-3 § 2, 2-15-11)