

**CITY OF MIAMI BEACH**

**CODE**

**Chapter 38 - ELECTIONS<sup>(1)</sup>**

**Sec. 38-1. - State law adopted.**

Subject to provisions of F.S. § 100.3605, general laws of the State relating to elections which are not inconsistent or in conflict with the provisions of the Charter or this chapter are hereby adopted as part of this chapter.

(Code 1964, § 10-2; Ord. No. 2013-3804, § 1, 7-17-13)

State Law reference— State election code, F.S. chs. 97—106.

**Sec. 38-2. - City commission to perform duties of County Board of Commissioners.**

Subject to provisions of F.S. § 100.3605, the city commission shall perform all acts in relation to general city elections which, by the state law, are made the duty of the board of county commissioners.

(Code 1964, § 10-3; Ord. No. 2013-3804, § 1, 7-17-13)

**Sec. 38-3. - Resolution by city commission calling election and noticing thereof.**

(a) For the purpose of making proper provision for each municipal election held in the city, the city commission shall, not less than 30 days prior to the proposed date of such election, adopt a resolution setting forth the following:

- (1) The date upon which such election is to be held.
- (2) The purpose of such election.
- (3) The days and hours, prior to the date of such election during which persons qualified to vote therein may register for the election.
- (4) The form of ballot to be used in such elections, prepared in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

(b) The city commission shall further authorize and direct the city clerk to give notice of the adoption of such resolution and of the provisions thereof prescribed in subsection (a), by and through the publication of an appropriate advertisement in a newspaper meeting the requirements set forth in F.S. § 50.031 once a week for four consecutive weeks next preceding the day upon which such municipal election is to be held. The city clerk shall further publish, in a newspaper meeting the requirements set forth in F.S. § 50.031 and on the city's website, the polling places for the election twice, once in the third week and once in the first week prior to the week in which the election is to be held.

(Code 1964, § 10-4; Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2017-4080, § 1, 3-1-17)

Charter reference— Qualifying for office, § 6.03.

**Sec. 38-4. - Acceptance of election returns; installation of new officers.**

On the first business day immediately following the county elections supervisor's issuance of final election results, the city commission shall meet for the purpose of accepting the returns of such election(s) and ascertaining the results thereof.

- (a) Should no run-off election be necessary, new officers shall be declared elected subsequent to the city commission's acceptance of final general (or special, as the case may be) election returns at which time the new officers shall be installed and shall enter upon the discharge of their duties, except as otherwise provided by the City Charter; if a run-off election is necessary, all new officers shall be declared elected subsequent to the city commission's acceptance of final run-off election returns on the first business day immediately following the county elections supervisor's issuance of such final election results, at which time the new officers shall be installed and shall enter upon the discharge of their duties, except as otherwise provided by the City Charter.
- (b) If a run-off election is necessary, the commission meeting(s) occurring between the date of general election and the commission's acceptance of final run-off election returns shall occur for the limited purpose of accepting the returns of such general election, and/or to address any emergency matter, pursuant to Florida law and City Charter §2.05.

(Code 1964, § 10-5; Ord. No. 97-3101, § 1, 10-21-97; Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2017-4080, § 1, 3-1-17)

**Sec. 38-5. - Appointment and duties of city clerk in connection with elections.**

The city clerk is nominated and appointed as the responsible official of the city and is hereby empowered, authorized and directed to perform all duties and functions and to exercise all powers of the supervisor of elections required to be performed under this Code, the City Charter, the County Charter or Code and the laws and constitution of the state in connection with municipal elections; however, whenever any act or duty with respect to an election has been, or may be, performed by the supervisor of elections of the county, it shall not be necessary for the city clerk to duplicate that act, but the clerk may rely upon the actions of the supervisor of elections of the county.

(Code 1964, § 10-7; Ord. No. 2013-3804, § 1, 7-17-13)

**Sec. 38-6. - Early voting.**

- (a) Pursuant to F.S. § 101.657(1)(e), (the "Early Voting Statute"), the City of Miami Beach may provide for early voting in city elections that are not held in conjunction with county or state elections, with the ability of the city to designate as many early voting sites as necessary and to conduct its activities in accordance with the provisions of F.S. § 101.657(1)(a)—(c).
- (b) If authorized by the city commission per subsection (a) above, early voting shall occur at Miami Beach City Hall and the North Shore Branch Library in accordance with the following schedule:
  - (1) *General election*: Early voting shall commence 15 days immediately preceding the general election for a total of 14 consecutive days.
  - (2) *Run-off election*: Early voting shall occur on the Friday, Saturday and Sunday immediately preceding any run-off election.

(3) *Special election-stand-alone (not otherwise held in conjunction with general or run-off election)*<sup>2</sup>: Early voting shall commence 15 days immediately preceding such special election for a total of 14 consecutive days. In the event of a special election to fill a vacancy on the city commission, early voting for any resulting run-off election shall occur on the Friday, Saturday and Sunday immediately preceding such run-off election.

- (c) The hours of early voting shall be noticed in a newspaper(s) of general circulation within the City of Miami Beach.
- (d) The remaining paragraphs of F.S. § 101.657, exclusive of paragraph (1)(d) thereof, shall continue to apply to the city's general, run-off and special elections as provided by law.
- (e) The city commission may, by resolution, adopted in advance of a general, run-off or special election that is not held in conjunction with a county or state election per subsection (a) above, alter the sites and/or schedule of days (and times, when early voting is either not conducted by the county supervisor of elections, or when the supervisor is conducting the early voting but has not exercised the discretion to determine the early voting hours) for early voting from that which is provided above.
- (f) The city clerk is hereby authorized to take any action not otherwise inconsistent with state or county law, which is necessary or expedient to implement early voting in accordance with this section.

(Ord. No. 2005-3492, § 2, 9-8-05; Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2020-4326, § 1, 1-15-20)

<sup>2</sup> The early voting time period for any special election held in conjunction with a general or run-off election shall occur in accordance with the respective time periods set forth above in Code section 38-6(b)(1), (2).

#### **Sec. 38-7. - Petitions.**

Each qualified elector of the city who signs an initiative, referendum or recall petition shall place thereon, his or her name (both the printed and original signature of the elector), his or her street address including city and state, his or her date of birth or voter registration number, and the date (including day, month, and year) on which he or she signed the petition. Elector signatures which do not comply with any one or more of the provisions set forth in this section shall be disqualified.

(Ord. No. 2013-3804, § 1, 7-17-13; Ord. No. 2017-4087, § 1, 4-26-17)

#### **Sec. 38-8. - Canvassing board.**

All elections conducted pursuant to the City Charter shall be canvassed by the canvassing board as provided for herein, and under the election laws of this state.

- (a) The canvassing board for city elections held on the same date as a countywide election shall be the Miami-Dade County Canvassing Board.
- (b) The canvassing board for city elections not held on the same date as a countywide election shall be comprised of a county court judge appointed by the chief judge of the Eleventh Judicial Circuit of Miami-Dade County, the city clerk, and a member of the city commission appointed by the city commission. In the event the county court judge selected by the chief judge under this subsection is unable to serve on the canvassing

board, such county court judge shall be replaced with another county court judge appointed by the chief judge to serve as substitute member; in the event any other member of the canvassing board under this subsection is unable to serve such member shall be replaced with a qualified elector of the city appointed by the city clerk to serve as a substitute member; the city clerk shall also select a qualified elector of the city to serve as an alternate member who will serve as a member of the canvassing board in the event the substitute or other member (besides the county court judge) is unable to serve.

- (c) No member of the canvassing board shall be a candidate who has opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate who has opposition in the election being canvassed.
- (d) The scheduling of canvassing board meetings, powers, and duties of the canvassing board, not otherwise inconsistent with the above, shall be conducted in accordance with state law.

(Ord. No. 2017-4080, § 1, 3-1-17)

**Sec. 38-9. - Electronic reporting/penalties.**

- (a) Each person, candidate, political committee, electioneering communications organization, or other individual or organization required to file campaign treasurer's reports with the city clerk in his/her official capacity as filing officer for the City of Miami Beach, pursuant to F.S. ch. 106 shall file such reports by means of the city's electronic filing system.
  - (1) Any failure to file reports on the designated due date shall subject the violator to those penalties provided in said [F.S.] ch. 106.
  - (2) The city clerk shall determine the required format and related process for the campaign treasurer's reports and shall provide copies of information upon request.
- (b) Definitions.
  - (1) "Person," "candidate", "political committee," and "electioneering communications organization" shall have the meanings ascribed to such terms in F.S. ch. 106.
  - (2) "Campaign treasurer's reports" shall mean the campaign finance reports required to be filed by each person, candidate, political committee, electioneering communications organization, or other individual or organization, pursuant to F.S. ch. 106.

(Ord. No. 2016-4066, § 1, 12-14-16)

**Sec. 38-10. - Electronic posting.**

Campaign treasurer reports electronically filed pursuant to this chapter shall be posted on the city's website by the city clerk within two business days of any such report's electronic filing date.

(Ord. No. 2016-4066, § 1, 12-14-16)

**Sec. 38-11. - Technical assistance.**

The city clerk shall provide technical assistance to those subject to the electronic filing requirements set forth above. The city commission may, by resolution, establish a schedule of fees for such technical assistance.

(Ord. No. 2016-4066, § 1, 12-14-16)

Footnotes:

--- (1) ---

Charter reference— Elections, art. VI; initiative and referendum elections, art. VII.

Cross reference— Any ordinance calling elections or prescribing the manner of conducting the election in accordance with state law saved from repeal, § 1-10(a)(16); administration, ch. 2; city commission, § 2-31 et seq.; election signs, § 138-134.

State Law reference— Florida election Code, F.S. chs. 97—106.

**THIS PAGE INTENTIONALLY LEFT BLANK**