

CITY OF HOMESTEAD, FLORIDA

ORDINANCE NO. 2023-08-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA, **AMENDING PART II, CHAPTER 10, “ELECTIONS,” OF THE CITY CODE OF ORDINANCES RELATING TO THE PROCEDURE FOR FILLING OF VACANCIES ON THE CITY COUNCIL AND THE QUALIFICATION TIME PERIOD ASSOCIATED THEREWITH; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City of Homestead (“City”) desires to amend the City Code of Ordinances (the “City Code”) to further define the procedures set forth in Article II, Section 2.03, “Election, term of office, seats and term limits” by clarifying regulations governing filling of vacancies on the City Council; and

WHEREAS, more specifically, the City Council desires to amend Section 10-2, “Time and manner of qualification of candidates,” to clarify procedures for qualification of candidates upon a vacancy in office and Section 10-16, “Procedure for filling of vacancies on city council” to specify the number of days within which a special election shall be held after a vacancy in office occurs; and

WHEREAS, the City has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, Chapter 166, Florida Statutes; and

WHEREAS, the City Council has determined that it is in the best interest of the City to do so.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double strikethrough~~ and double underline.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA, AS FOLLOWS¹:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Amendment to Part II, of Chapter 10 of the City Code. That sections Part II, Chapter 10 of the City of Homestead, Florida Code of Ordinances, is hereby amended to read as follows:

Part II. Code of the City

Chapter 10. Elections

Sec. 10-2. Time and manner of qualification of candidates.

(a) The time and manner for qualification of candidates

The time and manner for qualification of candidates for election to the office of council member or mayor shall be as follows:

(1) *Mayor and council election generally.* The qualification period for candidates to file to run for the office of council member or mayor shall commence on the first Monday which is no earlier than forty-one (41) days and no later than thirty-five (35) days before the date of the primary election. The duration of the qualifying period shall be for a period of five (5) consecutive days commencing on Monday at 8:30 a.m. and terminating on Friday at 4:30 p.m. and shall run from 8:30 a.m. to 4:30 p.m. of each successive day between and including Monday through Friday. Notwithstanding the above provision, in the event that the Monday upon which a qualifying period would otherwise commence is a holiday, the qualifying period shall commence on Tuesday immediately following such holiday and shall be extended for one (1) additional day, to-wit: the following Monday, with the same daily hours as described above.

(3) Qualification of candidates upon a vacancy in office.

i. *Special Election coinciding with a regularly scheduled election.* When a vacancy in office occurs and a special election is called to coincide with a regularly scheduled election, in accordance with Section 10-16 of this Code, the qualifying period for candidates to file to run for the office to fill such vacancy shall be in accordance with subsection (a)(1) above.

ii. *Stand-alone Special Election.* When a vacancy in office occurs

and a stand-alone special election is called to fill such vacancy, in accordance with Section 10-16 of this Code, the qualifying period for candidates to file to run such vacancy shall commence on the first Monday which is no earlier than forty-one (41) days and no later than thirty-five (35) days before the date of the special election. The duration of the qualification period shall be in accordance with subsection (a)(1) above.

Sec. 10-16. – Procedure for filling of vacancies on city council.

(a) Purpose. Pursuant to City Charter Section 2.05(c), the following general procedures shall be applicable to the process by which vacancies are filled on the council for the remaining portion of the vacating council member's term.

(b) *Procedure if less than one year remains in the term.* The procedure to be utilized shall be as follows:

(1) Less than one year and more than six months remaining in the term.

(1) i. Within seven (7) days following the occurrence of a vacancy in a seat on the council, the city clerk shall publish an announcement advising of the vacancy and stating that persons meeting the residency and registered elector qualifications for the particular council seat are invited to submit their application (the "application") in the form of a resume and statement of interest, outlining their qualifications to serve on the council.

(2) ii. The announcement shall invite applications to be submitted on or before a date which is not less than five (5) days and not more than fifteen (15) days after the date of publication of the announcement.

(3) iii. Copies of all applications timely received shall be provided by the city clerk to the mayor and the council members within two (2) days after the application closing date.

(4) iv. Within ten (10) days after the application closing date, the mayor shall make a proposed appointment, in writing, of the applicant whom the mayor deems to be the most qualified. The mayor may first interview individual applicants, if desired. In the event that the mayor is not satisfied that any applicant is qualified, the mayor shall advise the city clerk to repeat the application solicitation process.

(5) v. Once the mayor makes a proposed appointment of a person for a council seat, the effectiveness of that appointment shall be subject to the condition precedent of approval by a majority of the members of the council. The mayor shall vote on that item as part of the council body.

(6) vi. The mayor's request for council approval of his or her appointee shall

(7) be considered by the council at the next regular meeting of the council or at a special meeting of the council called (within fourteen (14) days of the mayor's proposed appointment) for such purpose. Prior to such regular or special council meeting, the council may, if desired, consider preliminary approval of such appointment at a committee of the whole meeting and may invite the mayor's appointee to make a presentation.

(8) vii. If the council fails or refuses to approve the mayor's proposed appointee, the mayor shall propose the appointment of another person from the application pool, and the remaining procedures set forth above shall be followed. In the event that no individual nominated to serve as Interim Council Member by the Mayor is approved by the Council within sixty (60) days of the vacancy, any Council Member may nominate a qualified individual to fill the vacancy for the consideration and approval of the Council from the pool of individuals that submitted an application in accordance with this Section.

(9) viii. If no applicant for a vacancy meets the qualifications for that particular seat, the mayor shall appoint a person otherwise qualified to fill the vacancy, subject to council approval.

(2) Six months or less remaining in the term. The Mayor, in his/her discretion, may either appoint a qualified individual to serve as interim council member or allow the seat to remain vacant. If the Mayor chooses to appoint a qualified individual, such appointment shall be made in accordance with the process set forth in subsection (b)(1)(i.- viii.) above.

(c) Procedure if one year or longer remains in term. If no regular election is to be held within six (6) months of a vacancy, the council shall call a special election to be held within ninety (90) days after the date of the vacancy, to fill the vacancy for the remaining portion of the vacating council member's term. If a regular election is to be held within six (6) months of the vacancy, such regular election shall be used to fill the vacant seat for the remaining portion of the vacating council member's term. If one year or more remain in the unexpired term of the vacated seat, the vacancy shall be filled by a special election to be held not sooner than forty-five (45) days or more than seventy (75) days following the occurrence of the vacancy, unless there is a City, County, State or a national election scheduled to take place within 120 days, in which case the vacancy shall be filled by special election on the first such election date. The individual receiving the highest number of votes in a special election shall be declared the winner of such special election and shall fill the vacant seat.

(d) Further applicability. The procedures provided by this section shall also be applicable to the filling of any vacancy in the office of vice mayor, as provided in Charter Section 2.05(d).

(e) Additional procedures. The city council may, by ordinance, provide for additional procedures for the filling of council vacancies, and may further provide for the implementation of this section by resolution.

Section 3. Codification. That it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 4. Severability. That the provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Implementation. That the City Manager (or his designee) is hereby authorized to take any and all action which is necessary to effectuate the intent and to implement this Resolution.

Section 7. Effective Date. That this Resolution shall become effective immediately upon adoption hereof.

PASSED on first reading this 26th day of July, 2023.

PASSED AND ADOPTED on second reading this 23rd day of August, 2023.

STEVEN D. LOSNER,
Mayor

ATTEST:

ELIZABETH SEWELL, MPA, MMC, FCRM
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L. CITY ATTORNEY

Motion to adopt by Vice Mayor Guzman, seconded by Councilwoman Fairclough-Staggers.

FINAL VOTE AT ADOPTION

Mayor Steven D. Losner
Vice Mayor Julio Guzman
Councilwoman Erica G. Ávila
Councilwoman Jenifer N. Bailey
Councilwoman Patricia D. Fairclough- Staggers
Councilman Sean L. Fletcher
Councilman Larry Roth

_____ YES
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