

**CITY OF ORMOND BEACH  
CODE OF ORDINANCES**

**Chapter 13**

**MUNICIPAL ELECTIONS**

**ARTICLE I. - IN GENERAL**

**Sec. 13-1. - Short title.**

This chapter shall be known and may be cited as the "Municipal Election Code."

(Code 1983, § 13-1; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-2. - Chief elections officer.**

The city clerk is hereby designated as the chief elections officer of the city and shall be responsible for conducting all municipal elections in a proper and lawful manner. The city clerk shall be authorized to delegate any or all of the said responsibilities to the county supervisor of elections.

(Code 1983, § 13-2; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-3. - Definitions.**

(a) The following terms:

- (1) Absent elector;
- (2) Ballot or official ballot;
- (3) Election board;
- (4) Election costs;
- (5) Lists of registered electors;
- (6) Newspaper of general circulation;
- (7) Nominal value;
- (8) Persons with disabilities;
- (9) Polling place;
- (10) Polling room;
- (11) Supervisor;
- (12) Voting booth or booth; and
- (13) Voting system;

shall be defined in accordance with the definitions thereof as set forth in F.S. § 97.021.

- (b) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Candidate* means any person to whom any one or more of the following applies:

- (1) Any person receiving contributions or making expenditures, or giving consent for any other person to do so, with the intent of bringing about that person's election to, or retention in, city office;
- (2) Any person who appoints a treasurer and designates a primary depository pursuant to F.S. § 106.021;
- (3) Any person who files qualification papers and subscribes to a candidate's oath as required by article III of this chapter.

*City* means the City of Ormond Beach, Florida.

*City Charter* means the Charter of the City of Ormond Beach adopted by a vote of the electors and filed with the secretary of state on November 16, 1988, as subsequently amended.

*City clerk* means the duly appointed city clerk of the city.

*City commission* means the duly elected city commission of the city.

*Election* means any city election held for any purpose.

*Elector* or *voter* means a qualified resident of the city on the date of the election properly registered in accordance with the Florida Voter Registration Act (F.S. § 97.032 et seq.).

*Issue* means a proposed amendment to the city Charter, the recall of a city commissioner, an authorization to issue bonds or other forms of indebtedness, a proposed annexation, a straw ballot, or any other public question to be voted upon by the electors of the city.

*Precinct* means that geographic area designated by the county council upon recommendation of the supervisor of elections, pursuant to F.S. § 101.001.

*Zone* means that geographic area of the city, described and established pursuant to section 5.09 of the city Charter, in which a candidate for the city commission seat representing such area must reside.

(Code 1983, § 13-3; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-48, § 1, 8-20-1996)

**Secs. 13-4—13-9. - Reserved.**

## **ARTICLE II. - QUALIFICATION AND REGISTRATION OF ELECTORS**

**State Law reference—** Florida Voter Registration Act, F.S. § 97.032 et seq.

**Sec. 13-10. - Qualifications to register to vote.**

The city hereby adopts the provisions of F.S. § 97.041, as the qualifications to register to vote in any city election.

(Code 1983, § 13-10; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-11. - Voter registration.**

The city hereby recognizes and adopts the permanent single registration system for the registration of electors, as established by F.S. § 97.105, and adopted and used by the county. Persons residing within the corporate limits of the city otherwise qualified and registered to vote in accordance with the Florida Voter Registration Act (F.S. § 97.032 et seq.) are the electors of the city.

(Code 1983, § 13-11; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-12. - Registration.**

The procedures for the opening and closing of registration books for the permanent registration system shall be in accordance with those set forth in F.S. § 97.055.

(Code 1983, § 13-12; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-13. - Removal from registration books.**

Any registered elector of the city may be removed from the registration books in accordance with the procedures set forth in F.S. §§ 98.065—98.093.

(Code 1983, § 13-13; Ord. No. 95-45, § 1, 3-7-1995)

**Secs. 13-14—13-19. - Reserved.**

**ARTICLE III. - CANDIDATES**

**Sec. 13-20. - Resign-to-run.**

- (a) No person may qualify as a candidate for elected city office whose name appears, or will appear, on the same or another ballot for another elected public office, the term of which, or any part thereof, runs concurrently with the term of the elected city office.
- (b) No person serving as an elected city official may qualify as a candidate for another elected public office, whether federal, state, district, county, or city, if the terms or any part thereof run concurrently with each other, without resigning from the elected city office in accordance with the provisions of F.S. § 99.012.
- (c) No person serving on any appointed city board or committee, without compensation, shall be required to resign from that position in order to qualify as a candidate for elected city office. However, a resignation is required prior to that person assuming elected city office.

(Code 1983, § 13-20; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-21. - Form of candidate oath.**

- (a) Each person, including a write-in candidate, in order to qualify as a candidate for elected city office, shall take and subscribe to an oath or affirmation in writing.
- (b) A printed copy of the oath or affirmation shall be furnished to the candidate by the chief elections officer and shall be in substantially the following form:

State of Florida

County of Volusia

Before me, an officer authorized to administer oaths, personally appeared \_\_\_\_\_ [please print name exactly as you wish it to appear on the ballot (Note: write-in candidates' names will not appear on the ballot)], to me well known, who, being sworn, says that \_\_\_\_\_ is a candidate for the office of \_\_\_\_\_; that \_\_\_\_\_ is qualified under the Constitution and the Laws of Florida to hold the office to which \_\_\_\_\_ desires to be elected; that \_\_\_\_\_ has taken the oath required by F.S. §§ 876.05—876.10:

[I \_\_\_\_\_, a citizen of the State of Florida and of the United States of America, and a candidate for public office, do hereby solemnly swear or affirm that I will support the Constitution of the United States and of the State of Florida]; that \_\_\_\_\_ has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office \_\_\_\_\_ seeks; and that \_\_\_\_\_ has resigned from any office from which \_\_\_\_\_ is required to resign pursuant to F.S. § 99.012, or section 13-20, Code of Ordinances.

\_\_\_\_\_

Signature of Candidate

\_\_\_\_\_

Address

\_\_\_\_\_

City State Zip

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at Volusia County, Florida.

\_\_\_\_\_

(Signature and title of officer administering oath)

\_\_\_\_\_

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_ or Produced Identification \_\_\_\_

Type of Identification Produced \_\_\_\_\_

(Code 1983, § 13-21; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-22. - Method of qualifying.**

- (a) Each person seeking to qualify as a candidate for elected city office shall file with the chief elections officer the written and sworn notice of candidacy required by section 5.02 of the city Charter, the candidate's oath required by section 13-21, the campaign finance reports required by F.S. § 106.07, and a statement of financial interests required by F.S. ch. 112, if applicable, or copies in lieu of originals previously filed. Additionally, unless exempted therefrom under F.S. § 99.093(2), the election assessment required by F.S. § 99.093(1) shall be paid.
- (b) Any person who resides in an area which is annexed into the city prior to a city election shall be eligible to be a candidate for city elected office provided the person has resided within such area for the applicable period of time set forth in section 3.02 of the city Charter for the office sought.
- (c) (1) Each person seeking to qualify for election to office as a write-in candidate shall file the necessary qualification papers with the chief elections officer at any time after 12:00 noon of the first day for qualifying, but not later than 12:00 noon of the last day of the end of the qualifying period specified by section 13-23.  
(2) A write-in candidate shall not be entitled to have his name printed on any ballot; however, space for his name to be written in shall be provided on the ballot. No person may qualify as a write-in candidate if that person has also otherwise qualified for election to such office.

(Code 1983, § 13-22; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-6, § 1, 4-2-1996; Ord. No. 96-48, § 3, 8-20-1996; Ord. No. 97-21, § 1, 5-20-1997)

**Sec. 13-23. - Time for qualifying.**

The qualifying period for city elections shall be as set forth in section 5.03 of the city Charter, or as otherwise established by the city commission pursuant thereto.

(Code 1983, § 13-23; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-24. - Withdrawal of candidate.**

- (a) A duly qualified candidate for elected city office may withdraw at any time prior to the election by filing with the chief elections officer a written and sworn statement to that effect. No duly qualified candidate who so withdraws may renew his candidacy unless the qualifying period has not expired at the time of such renewal.
- (b) A duly qualified candidate who suffers an illness or disability prior to the election shall remain as a candidate unless adjudicated mentally incompetent by a court of

competent jurisdiction. Any such candidate who is so adjudicated shall be deemed to have withdrawn his candidacy as of the date of such adjudication.

- (c) A duly qualified candidate who is convicted of a felony by any court of competent jurisdiction prior to the election shall be deemed to have withdrawn his candidacy as of the date of such conviction.
- (d) Any vote cast for a candidate who has withdrawn, or has been deemed to have withdrawn, his candidacy shall not be canvassed or certified as a valid vote.
- (e) No duly qualified candidate withdrawing or being removed from the ballot after having qualified and paid the election assessment shall receive a refund of any portion of that assessment.

(Code 1983, § 13-24; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-25. - Candidate's name.**

The name of each candidate shall be printed on the ballot in exactly the same form as it appears on the candidate's written and sworn notice of candidacy. No title or evidence of incumbency shall be printed on the ballot.

(Code 1983, § 13-25; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-26. - Reserved.**

**Secs. 13-27—13-29. - Reserved.**

**ARTICLE IV. - ISSUE ELECTIONS**

**Sec. 13-30. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Issue election* means an election called for the purpose of approving or disapproving an issue, including, but not limited to, a Charter amendment, bond authorization, annexation, recall, straw ballot, or other public question voted upon by the electors.

(Code 1983, § 13-30; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-31. - Calling of election.**

- (a) Except as may be otherwise required by state law or the city Charter, an issue election shall be called by the city commission by adopting an ordinance to that effect upon receipt of the chief elections officer's certification that all applicable substantive requirements and applicable procedures have been met and complied

with. Whenever possible, an issue election shall be held in conjunction with a previously scheduled state, county or city election.

- (b) Unless otherwise required by state law, or unless done in order for the issue election to be held in conjunction with a previously scheduled state, county, or city election, no issue election may be held less than 45 days after the date the issue election is called.

(Code 1983, § 13-31; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-32. - Applicable election laws.**

Except as otherwise required by state law, an issue election shall be conducted pursuant to the provisions of this chapter.

(Code 1983, § 13-32; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-33. - Ballot language.**

- (a) The city commission shall provide the language to appear on the ballot in the ordinance calling the issue election. The substance of the amendment or other issue shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.
- (b) If more than one issue is to appear on the same ballot, a consecutive designating number shall be assigned to each by the chief elections officer, in the order of filing of the appropriate documents required in order to be placed on the ballot or approval by the city commission of the ordinance calling the election.
- (c) The chief elections officer shall transmit a certified copy of any ordinance calling an issue election to the supervisor of elections, at least 30 days prior to the issue election.

(Code 1983, § 13-33; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-34. - Ballot position.**

Any issue on a ballot also having candidates for city elective office shall be placed in a position on the ballot so that it is separate and distinct from that portion of the ballot containing candidates' names.

(Code 1983, § 13-34; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-35. - Use of public funds.**

The city commission may appropriate and expend public funds in order to inform the public with respect to any issue election, excluding a recall election. The city

commission shall not be deemed to be a "political committee" as defined in F.S. § 106.011, and shall not be required to file reports of any such informational expenditures pursuant to F.S. § 106.07.

(Code 1983, § 13-35; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-36. - City Charter amendments.**

Proposed amendments or revisions to the city Charter shall be proposed and submitted to the electors of the city in accordance with the provisions of F.S. § 166.031, and, to the extent not inconsistent therewith, the provisions of this chapter.

(Code 1983, § 13-36; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-37. - Recall.**

Any member of the city commission may be removed from office by the electors of the city. Any such recall effort shall be governed by the provisions of F.S. § 100.361.

(Code 1983, § 13-37; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-38. - Bond authorization.**

- (a) Any election called to approve the issuance of bonds or other forms of indebtedness shall be called and conducted pursuant to the provisions of F.S. §§ 100.201—100.351, inclusive, and, to the extent not inconsistent therewith, the provisions of this chapter.
- (b) No bond referendum shall be limited to voting by freeholders. Any elector of the city shall be qualified and eligible to vote in bond referenda, provided such elector has registered to vote at least 30 days prior to the date of the election.

(Code 1983, § 13-38; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-48, § 4, 8-20-1996)

**Sec. 13-39. - Involuntary annexation.**

An election to approve the involuntary annexation of real property pursuant to F.S. § 171.0413 shall be held and conducted pursuant to the said section and, to the extent not inconsistent therewith, the provisions of this chapter.

(Code 1983, § 13-39; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-40. - Straw ballot.**

- (a) The city commission may at any time, by ordinance, call a special election for the purpose of having the electors of the city vote on an issue in a nonbinding referendum. The ordinance shall call the election, set the date thereof, and



prescribe the ballot language. The chief elections officer shall cause a notice of election to be published in accordance with section 5.06 of the city Charter.

- (b) The election may be held in conjunction with a regularly scheduled state or city election or at such time as may be provided by the city commission.
- (c) The campaign financing provisions of F.S. ch. 106 shall apply to elections called pursuant to this section.

(Code 1983, § 13-40; Ord. No. 95-45, § 1, 3-7-1995)

#### **Sec. 13-41. - Other public issues.**

An election on any public issue not otherwise provided for in this chapter shall be conducted in such manner as may be provided in the ordinance calling the election.

(Code 1983, § 13-41; Ord. No. 95-45, § 1, 3-7-1995)

#### **Sec. 13-42. - Main ballot election.**

Nothing contained in this chapter shall be deemed to prohibit any issue election from being conducted pursuant to the Mail Ballot Election Act (F.S. § 101.6101 et seq.).

(Code 1983, § 13-42; Ord. No. 95-45, § 1, 3-7-1995)

#### **Sec. 13-43. - Prohibited practices.**

- (a) Any person knowingly signing a petition more than one time shall be in violation of F.S. § 104.185.
- (b) Any circulator falsely executing the affidavit on any petition blank shall be in violation of F.S. § 104.011.
- (c) Any person who by bribery, menace, threat, or other corruption whatsoever, either directly or indirectly, attempts to influence, deceive, or deter any elector or interferes with any elector in the free exercise of the elector's right to sign or not sign a petition shall be guilty of a violation of this subsection, punishable as provided in section 1-9.
- (d) Any person who shall directly or indirectly give or promise anything of value to another intending thereby to buy that person's or another's signature on a petition, or to corruptly influence another in signing or not signing a petition, shall be guilty of a violation of this subsection, punishable as provided in section 1-9.

(Code 1983, § 13-43; Ord. No. 95-45, § 1, 3-7-1995)

#### **Sec. 13-44. - Removal of names.**

Any person may request the removal of the person's name from a previously executed petition prior to the filing of the petition with the chief elections officer. The responsibility

for removal of any name pursuant to a request shall be that of the petitioners' committee and failure to promptly do so when requested shall be a violation of this subsection, punishable as provided in section 1-9.

(Code 1983, § 13-44; Ord. No. 95-45, § 1, 3-7-1995)

**Secs. 13-45—13-49. - Reserved.**

**ARTICLE V. - ELECTION ADMINISTRATION**

**Sec. 13-50. - Dates of elections.**

City elections shall be held on the dates specified in the city Charter or, if not specified in the city Charter, in the ordinance calling the given city election.

(Code 1983, § 13-50; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-51. - Precincts.**

- (a) Those precincts approved by the county council pursuant to F.S. § 101.001, to the extent the same include territory within the corporate limits of the city, are hereby designated as the city precincts to be used in any and all city elections. The city commission hereby gives its concurrence in the event the county council subsequently elects to arrange the boundaries of the precincts within the city to conform with the boundaries of the city.
- (b) The chief elections officer shall promptly forward a certified copy of any annexation ordinance approved by the city commission to the supervisor of elections. Precinct boundaries may be altered to conform to the municipal boundaries as changed due to annexation.
- (c) If a precinct boundary was unable to be altered to conform to annexation by the date of a city election, any qualified elector residing within the area annexed shall be eligible to vote in the city election.

(Code 1983, § 13-51; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-48, § 5, 8-20-1996)

**Sec. 13-52. - Polling places.**

- (a) There shall be one polling place for each precinct. Those polling places designated and used by the supervisor of elections shall be used for city elections.
- (b) Polling places may be relocated for the reasons and in the manners provided for in F.S. §§ 101.71 and 101.74. The supervisor of elections shall provide the chief elections officer with as much notice as is reasonable under the circumstances prior to relocating any polling place for a city election.
- (c) Each polling place shall be accessible to, and usable by, elderly persons and by physically handicapped persons by complying, when necessary, with those standards of accessibility set forth in F.S. § 101.715.

- (d) Each polling place shall be arranged in the manner prescribed by the Florida Election Code.
- (e) The provisions of F.S. §§ 102.031, 102.091, and 102.101 are hereby adopted and incorporated herein by reference, and shall govern the conduct of all city elections. The chief elections officer shall be the final interpretative authority as to the aforespecified statutory provisions with respect to all city elections.

(Code 1983, § 13-52; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-53. - Voting machines or devices.**

- (a) The city shall use such machines or other voting devices as have been adopted by the county. Such machines or other voting devices shall be owned by the county and supplied by the supervisor of elections.
- (b) Such machines or other voting devices shall be placed, located and prepared in accordance with the applicable portions of F.S. ch. 101.
- (c) In any city election in which a write-in candidate has qualified for office, the chief elections officer shall provide for write-in voting pursuant to rules adopted by the division of elections.

(Code 1983, § 13-53; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-54. - Ballots.**

- (a) *Regular election ballot.*

- (1) The regular election ballot for city commission elections shall be in substantially the following form:

OFFICIAL BALLOT	Stub
REGULAR ELECTION	Top
CITY COMMISSION ZONE [#]	
CITY OF ORMOND BEACH	
VOLUSIA COUNTY, FLORIDA	
[DATE]	(Detach this stub)

OFFICIAL BALLOT

REGULAR ELECTION  
 CITY COMMISSION ZONE [#]  
 CITY OF ORMOND BEACH  
 VOLUSIA COUNTY, FLORIDA  
 [DATE]

DIRECTIONS:

Completely fill in the oval opposite the name of the candidate you wish to vote for. Use a black marker or a No. 2 pencil.

EXAMPLE:

MAYOR

- (Name of Candidate)
- (Name of Candidate)
- (Name of Candidate)

CITY COMMISSIONER

- (Name of Candidate)
- (Name of Candidate)
- (Name of Candidate)

(2) The regular election ballot shall be arranged and printed so that the mayoral candidates shall be listed to the top side of the ballot, and the city commission candidates shall be listed below the mayoral candidates. Candidates for each office shall be listed in alphabetical order.

(b) *Runoff election ballot.*

(1) The runoff election ballot for city commission elections shall be in substantially the following form:

OFFICIAL BALLOT	Stub
RUNOFF ELECTION	Top
CITY COMMISSION ZONE [#]	
CITY OF ORMOND BEACH	

VOLUSIA COUNTY, FLORIDA	
[DATE]	(Detach this stub)

OFFICIAL BALLOT

RUNOFF ELECTION

CITY COMMISSION ZONE [#]

CITY OF ORMOND BEACH

VOLUSIA COUNTY, FLORIDA

[DATE]

DIRECTIONS: ;p22; Completely fill in the oval opposite the name of the candidate you wish to vote for. Use a black marker or a No. 2 pencil.

EXAMPLE:

MAYOR

(Name of Candidate)

(Name of Candidate)

CITY COMMISSIONER

(Name of Candidate)

(Name of Candidate)

- (2) The runoff election ballot shall be arranged and printed so that the mayoral candidates shall be listed to the top side of the ballot, and the city commission candidates shall be listed below the mayoral candidates. Candidates for each office shall be listed in alphabetical order.

(c) *Special election ballots.*

- (1) The ballot for any special city commission election called to fill a vacancy on the city commission shall be in the form and arranged and printed in accordance with the provisions of subsections (a) and (b) of this section.
- (2) The ballot for any issue election shall be in the form, arranged and printed in accordance with the provisions of the ordinance calling the election.

- (d) *Preparation of ballots.* Ballots shall be prepared by the supervisor of elections pursuant to instructions provided by the chief elections officer and in accordance with the Florida Election Code and this chapter.
- (e) *Sample ballots.* The chief elections officer shall provide and publish sample ballots in accordance with the provisions of F.S. § 101.20.

(Code 1983, § 13-54; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 2006-10, § 1, 8-1-2006)

### **Sec. 13-55. - Poll workers.**

- (a) The city commission shall appoint the number of inspectors and clerks for each city election, which appointment shall be based on the recommendation of the chief elections officer after consultation with the supervisor of elections. Each such poll worker shall have completed all training classes as are required by the supervisor of elections prior to their service.
- (b) One poll worker in each precinct shall be designated as the precinct clerk and shall be in charge of, and responsible for, the conduct of the election at that polling place.
- (c) For each city election, the chief elections officer shall request the sheriff to deputize a deputy sheriff for each precinct who shall be present during the time the polls are open and until the election is completed, who shall be subject to all lawful commands of the clerk and inspectors, and who shall maintain good order. The deputy may summon assistance from among bystanders to aid him when necessary to maintain peace and order at the polls.
- (d) Poll workers shall conduct the election and, at the close of the polls, ascertain the results for their respective precincts in the manner set forth in F.S. chs. 101 and 102, to the extent not inconsistent with this chapter, and shall report such results in the manner directed by the chief elections officer. Electors shall cast their ballots in the manner provided for in F.S. ch. 101.
- (e) Poll workers shall be compensated in the manner and amount provided for by the Florida Election Code and applicable regulations promulgated thereunder.

(Code 1983, § 13-55; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-48, § 6, 8-20-1996)

### **Sec. 13-56. - Absentee ballots.**

- (a) Absentee ballots may be used by registered electors of the city to vote in city elections, provided the elector meets the definition of absentee elector set forth in F.S. § 97.021(1).
- (b) If a request for an absentee ballot is received after the Friday before the election by the chief elections officer from an absent qualified elector overseas, the chief elections officer shall send a notice to the elector acknowledging receipt of the elector's request and notifying the elector that the ballot will not be forwarded due to insufficient time for return of the ballot by the required deadline.

- (c) For the purposes of this section, the term "absent qualified elector overseas" means:
- (1) Members of the Armed Forces while in the active service who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia;
  - (2) Members of the Merchant Marine of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia; and
  - (3) Other citizens of the United States who are permanent residents of the state and are temporarily residing outside the territorial limits of the United States and the District of Columbia, who are qualified and registered as provided by law.
- (d) With respect to marked ballots mailed by absent qualified electors overseas, only those ballots mailed with an APO, FPO, or foreign postmark shall be considered valid.
- (e) The chief elections officer shall receive and keep marked absent electors' ballots in accordance with the procedures set forth in F.S. § 101.67, and with security procedures as adopted by resolution of the city commission.
- (f) In addition to the foregoing, the minimum security procedures for voting systems as required by F.S. § 101.015 and adopted by the supervisor of elections shall be adhered to by the chief elections officer in conducting any municipal election.
- (g) The provisions of this chapter shall not be construed to prohibit any elector from voting in person at the elector's precinct on the day of an election, notwithstanding that the elector has requested an absentee ballot for that election. An elector who has received an absentee ballot, but desires to vote in person, shall return the ballot, whether voted or not, to the election board in the elector's precinct. The returned ballot shall be marked "canceled" by the board and placed with other canceled ballots. However, if the elector is unable to return the ballot, the elector may execute an affidavit stating that the absentee ballot has not been voted and the elector may then vote at the precinct.
- (h) If the chief elections officer receives a federal postcard application for an absentee ballot, the same shall be referred to the supervisor of elections for processing in accordance with the procedures set forth in F.S. § 101.694.
- (i) Any absentee ballot not voted in accordance with the Florida Election Code and this chapter shall be set aside and not counted.

(Code 1983, § 13-56; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-48, § 7, 8-20-1996)

### **Sec. 13-57. - Mail ballot elections.**

Any city election may be conducted by mail ballot, subject to the requirements of the Mail Ballot Election Act (F.S. §§ 101.6101—101.6107) and the regulations promulgated thereunder.

(Code 1983, § 13-57; Ord. No. 95-45, § 1, 3-7-1995)

**Secs. 13-58, 15-59. - Reserved.**

## **ARTICLE VI. - CANVASSING; PROTESTS AND CONTESTS**

### **Sec. 13-60. - Canvassing board.**

- (a) The city canvassing board for all city elections shall consist of one member of the city commission selected by a majority of the other members, preferably a member not on the ballot for the election, who shall serve as the chair; the city manager or his designee, who must be a department head; and the city clerk, the city's chief elections officer. The city attorney, any assistant city attorney, the chief elections officer, any member of staff of the chief elections officer, and the staff of the supervisor of elections may assist the canvassing board in carrying out its responsibilities. No member of the city commission may participate in the canvassing of the returns of any election in which the member was subject to recall.
- (b) The canvassing board shall canvass the returns in accordance with the following procedures:
  - (1) The city canvassing board shall meet in a building accessible to the public at a time and place to be designated by the chief elections officer to publicly canvass the absentee electors' ballots as provided in subsection (c) of this section. Public notice of the time and place at which the city canvassing board shall meet to canvass the absentee electors' ballots shall be given at least 48 hours prior thereto by publication once in a newspaper of general circulation in the city. As soon as the absentee electors' ballots are canvassed, the board shall proceed to publicly canvass the vote given each candidate or other measure submitted to the electorate of the city, as shown by the returns then on file in the office of the supervisor of elections.
  - (2) The canvass, except the canvass of absentee electors' returns, shall be made from the returns and certificates of the inspectors as signed and filed by them with the chief elections officer, and the city canvassing board shall not change the number of votes cast for a candidate or other measure submitted to the electorate of the city, respectively, in any polling place, as shown by the returns. All returns shall be made to the board on or before 12:00 noon of the day following any regular, runoff, special, or other municipal election. If the returns from any precinct are missing, if there are any omissions on the returns from any precinct, or if there is an obvious error on any such returns, the canvassing board shall order a recount of the returns from such precinct. Before canvassing such returns, the canvassing board shall examine the counters on the machines or the tabulation of the ballots cast in such precinct and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the counters of the machines or the tabulation of the ballots cast, the counters of such machines or the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.



- (c) The city canvassing board shall canvass the absentee electors' returns in accordance with the following procedures:
- (1) The chief elections officer shall receive the voted ballot, at which time the chief elections officer may compare the information on the voter's certificate on the back of the envelope with the information and the signature of the elector in the registration books to determine whether the elector is duly registered in the county and may record on the elector's registration certificate that the elector has voted. The chief elections officer shall safely keep the ballot unopened in his office until the city canvassing board canvasses the vote according to law. The canvassing board may begin the canvassing of absentee ballots at 7:00 a.m. on the day of the election, but not later than 12:00 noon on the day following the election; however, the counting of votes on absentee ballots shall begin no earlier than 7:00 p.m. on the day of the election. The canvassing board shall compare the ballots presented to it by the chief elections officer for canvass with the record required by section 13-56 so as to compare the number of ballots in its possession with the number of requests for ballots received to be counted according to the chief elections officer's file or list, to ensure all the absentee ballots to be counted by the canvassing board are accounted for. The canvassing board shall, if the chief elections officer has not already done so, compare the information on the back of the envelope and the signature of the elector with the registration book to see that the elector is duly registered in the county and has not voted on election day and to determine the legality of the absent elector's ballot. If it is determined by the canvassing board that any vote is illegal, then some member of the board shall, without opening the envelope, mark across the face of the envelope: "rejected as illegal." The envelope and the ballot contained therein shall be preserved in the manner that official ballots voted are preserved.
  - (2) If any elector or candidate present believes that any absentee ballot is illegal due to any defect apparent on the voter's certificate, he may, at any time before the ballot is removed from the envelope, file with the canvassing board a protest against the canvass of such ballot, specifying the precinct, the ballot, and the reason he believes such ballot to be illegal. No challenge based upon any defect in the voter's certificate shall be accepted after the ballot has been removed from the mailing envelope.
  - (3) The city canvassing board shall then record the ballot upon the proper record, unless the ballot has been previously recorded by the chief elections officer. The mailing envelopes shall be opened and the secrecy envelopes shall be mixed so as to make it impossible to determine which secrecy envelope came out of which signed mailing envelope; however, if an electronic or electromechanical voting system is used, the ballots may be sorted by ballot styles and the mailing envelopes may be opened and the secrecy envelopes mixed separately for each ballot style. The votes on absentee ballots shall be included in the total vote of the city.

- (4) The chief elections officer shall, after the board convenes, have custody of the absent electors' ballots until a final proclamation is made as to the total vote received by each candidate.
- (d) The chief elections officer shall furnish each candidate declared to be elected a certificate of election by 12:00 noon of the 12th day following the day of the election, and shall forward to the supervisor of elections a certified copy of any resolution declaring the results of each city election.

(Code 1983, § 13-60; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 96-48, § 8, 8-20-1996; Ord. No. 2006-10, § 2, 8-1-2006)

### **Sec. 13-61. - Recounts.**

- (a) In its discretion, the canvassing board may order a recount of the returns of any election prior to the final certification of the results.
- (b) Upon the request of any candidate for good cause shown, the canvassing board may, prior to the final certification of results, order a recount in whole or in part of the election in which that candidate participated. Upon the request of any elector for good cause shown, the canvassing board may, prior to final certification of results, order a recount of any issue election.
- (c) If the returns for any office reflect that a candidate was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a city commissioner subject to recall was retained or not retained by one-half of a percent or less of the votes cast on the question of recall, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, the canvassing board shall order a recount of the votes cast with respect to such office or measure. A recount need not be ordered with respect to the returns for any office, however, if the candidate or candidates defeated, recalled, or eliminated from contention for such office by one-half of a percent or less of the votes cast for such office request in writing that a recount not be made. The canvassing board shall examine the tabulation of the ballots cast in each precinct in which the office or issue appeared on the ballot and determine whether the returns correctly reflect the votes cast. If there is a discrepancy between the returns and the tabulation of the ballots cast, the tabulation of the ballots cast shall be presumed correct and such votes shall be canvassed accordingly.

(Code 1983, § 13-61; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 2006-10, § 3, 8-1-2006)

### **Sec. 13-62. - Protest.**

Any candidate or any elector qualified to vote in the election related to such candidacy may file a protest of the election returns pursuant to F.S. § 102.166. If the protest is filed with the canvassing board, it shall consider the protest in accordance with F.S. § 102.166(1).

(Code 1983, § 13-62; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-63. - Contest.**

- (a) An unsuccessful candidate may contest the results of the election in which he participated as provided in F.S. § 102.168.
- (b) A resident of the city may contest the results of any question or issue submitted to a vote of the electors as provided in F.S. § 102.168.
- (c) If the unsuccessful candidate filing a contest is determined to be entitled to the office, and some other individual has been issued a certificate of election or entered upon the duties of the office, a judgment of ouster may be entered by the circuit court and the contestant shall assume that office.
- (d) If a judgment is entered setting aside an issue election, the election shall be regarded as having been void.

(Code 1983, § 13-63; Ord. No. 95-45, § 1, 3-7-1995)

**Secs. 13-64—13-69. - Reserved.**

**ARTICLE VII. - ELECTION CODE: VIOLATIONS; PENALTIES**

**Sec. 13-70. - Prohibited acts and practices.**

Those acts and practices prohibited by F.S. ch. 104 are also prohibited in all city elections conducted pursuant to this chapter, and shall be punishable as provided in F.S. ch. 104.

(Code 1983, § 13-70; Ord. No. 95-45, § 1, 3-7-1995)

**Sec. 13-71. - Signs.**

- (a) Political campaign signs shall be placed and removed in accordance with the provisions of chapter 3, article IV of the land development code, as amended.
- (b) The unauthorized alteration, destruction, or removal of a political sign of a candidate or of a political committee, other than its removal by a city employee enforcing any law, including the land development code, or a state employee enforcing F.S. ch. 479, shall constitute an unfair campaign practice and a municipal ordinance violation punishable as provided in section 1-9.

(Code 1983, § 13-71; Ord. No. 95-45, § 1, 3-7-1995; Ord. No. 2006-10, § 4, 8-1-2006)

**Secs. 13-72—13-79. - Reserved.**

**ARTICLE VIII. - CAMPAIGN FINANCES**

**Sec. 13-80. - Application of state law.**

- (a) The provisions of F.S. ch. 106 shall be complied with.

(b) Violations of F.S. ch. 106 shall be enforced in the manner provided in F.S. §§ 106.25—106.28.

(Code 1983, § 13-80; Ord. No. 95-45, § 1, 3-7-1995)