

ORDINANCE No. 2005-12-50

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ESTABLISHING AN ELECTION CODE FOR THE CITY OF MIAMI GARDENS; PROVIDING FOR ADOPTION OF THE STATE LAW; PROVIDING FOR DUTIES OF THE CITY COUNCIL; PROVIDING FOR A PROCEDURE FOR THE CALL OF AN ELECTION; PROVIDING FOR CITY CLERK TO SERVE AS SUPERVISOR OF ELECTIONS; PROVIDING FOR CERTIFICATION OF ELECTION RESULTS; PROVIDING FOR A FEE FOR CANDIDATES; PROVIDING FOR AN OATH OF OFFICE; PROVIDING FOR BALLOT REQUIREMENTS; PROVIDING FOR THE INSTALLATION OF NEW OFFICERS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Miami Gardens is required to hold elections for the offices of Mayor and City Council, and

WHEREAS, pursuant to Sections 2.3 and 5.1 of the City's Charter, the City's elections are supposed to be conducted in a certain manner, and

WHEREAS, the City Council deems it necessary and appropriate to establish an Election Code for the City of Miami Gardens,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. CREATION OF ELECTION CODE: There is hereby created in the City of Miami Gardens an Elections Code as follows:

SECTION 3. **State law adopted.**

All general laws of the state relating to elections and to the registration of persons qualified to vote therein, which are not inconsistent or in conflict with the provisions of this Ordinance, are hereby adopted as part of this Ordinance.

SECTION 4. City Council to perform duties of Board of County Council Members.

The City Council shall perform all acts in relation to general city elections that, by the state law, are made the duty of the Board of County Commissioners.

SECTION 5. General provisions.

(A) Electors. Any person who is a resident of the City, has qualified as an elector of the State, and registers to vote in the manner prescribed by law shall be an elector of the City.

(B) Nonpartisan Elections. All elections for the Council and Mayor shall be conducted on a nonpartisan basis. The ballot shall not show the party designation of any candidate.

(C) Election Dates. A general election shall be held in each even-numbered year, on the day of the first state primary election, or if none is held in any such year, on the first Tuesday following the second Monday in September. A run-off election, if necessary, shall be held on the day of the second state primary election or if none is held in any such year, then on the first Tuesday in October. The Council shall hold no meetings between the general election and the swearing in of those newly created or re-elected Council members except in the case of an emergency affecting life, health, property or the public peace.

(D) General Election. The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the seats which are to be filled as a result of members' terms expiring. The ballot shall instruct electors to cast one vote for Mayor and one vote for each Council Seat, with a maximum of one vote per candidate. If any candidate for Mayor receives a number of votes greater than 50% of the total number of ballots cast, such candidate shall be the duly elected Mayor and no run-off election for Mayor shall be required. If any candidate for a Council Seat receives a number of votes greater than 50% of the total number of ballots cast, such candidate(s) shall be duly elected to the Council and no run-off election for that Seat(s) shall be required.

(E) Run-off Election. If necessary, the ballot for the run-off election shall contain the names of the two candidates for Mayor and the names of the two candidates for each Council Seat, who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor and one vote for each Council Seat, with a maximum of one vote per candidate. The candidate for Mayor receiving the most votes

shall be duly elected Mayor. The candidate for each Council Seat receiving the most votes shall be duly elected to the Council Seat.

(F) Special Elections. Special elections, when required, shall be scheduled by the Council at such times and in such a manner as shall be consistent with this Charter and State law.

(G) Single Candidates. No election for Mayor or any Council Seat shall be required in any election if there is only one duly qualified candidate for Mayor or for any Council Seat. That candidate shall be considered elected by operation of law.

(H) Commencement of Terms. The term of office of all elected officials will commence at the next regularly scheduled council meeting following the day of the run-off election or, if there is no run-off election for Mayor or Council Seat, at the next regularly scheduled council meeting after the general election.

(I) Absentee Votes. Absentee voting will be permitted as provided by the laws of the State and under conditions as may be prescribed by ordinance from time to time; provided, however, that no ordinance shall limit the right to vote by absentee ballot available under State law.

SECTION 6. City Council Ordinance to provide election information; change of polling places.

A. For the purpose of making proper provision for each municipal election held in the City, the City Council shall, no earlier than 63 days and no less than 49 days prior to the proposed date of such election, adopt an ordinance setting forth:

- (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 therefore;
- (4) The list of polling places in the several precincts;
- (5) 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 Council shall further authorize and direct the City Clerk to give notice of the adoption of such Ordinance and of the provisions thereof hereinbefore prescribed, by and through the publication of an appropriate advertisement in a newspaper meeting the requirements set forth in §50.031, Florida Statutes, once a

week for four consecutive weeks next preceding the day upon which such municipal election is to be held.

SECTION 7. City Clerk to serve as Supervisor of Elections.

The City Clerk shall serve as the Supervisor of City elections and is hereby authorized and directed to perform all duties and functions and to exercise all powers required to be performed under City Code, Municipal Charter, the Charter or Code of Miami-Dade County and the Laws and Constitution of the State of Florida in connection with municipal elections; provided however, that whenever any act or duty with respect to an election has been, or may be, performed by the Supervisor of Elections of Miami-Dade County, Florida, it shall not be necessary for the City Clerk to duplicate that act, but the City Clerk may rely upon the actions of the Supervisor of Elections of Miami-Dade County, Florida.

SECTION 8. Canvass of election returns; certificate of election.

All municipal elections, which do not appear on the same ballot as a county election, shall be canvassed by a Board comprised of the City Clerk, the City Manager, and one registered voter to be designated by the City Council, who shall serve with the assistance of the Miami-Dade County Supervisor of Elections. The City Clerk shall present a certification of election results to the City Council at the first meeting of the City Council following an election. Any election held in conjunction with a county, state or federal election or any mail-ballot election shall be canvassed by the Miami-Dade County canvassing board. Canvassing of election returns shall be conducted under applicable provisions of the Florida statutes.

SECTION 9. Qualifying as candidate for Mayor or City Council Member; fee; oath; single candidate considered elected.

Candidates for the office of Mayor or City Council Member shall qualify with the City Clerk no earlier than 9:00 a.m. on the 63rd day and no later than 4:00 p.m. on the 49th day prior to the date of the general election for the office of Mayor or City Council Member, every year a municipal general election is held, and in the method provided for in the City Charter and under the rules of elections prescribed in the Florida Statutes.

(A) A candidate for the office of Mayor or City Council Member shall qualify by paying to the City Clerk the sum of \$200 as a qualifying fee, which fee shall be in addition to any fee required by the State, and by signing the oath required by Section 9 of this Ordinance. The following additional provisions shall also apply:

(1) A person may not be a candidate for more than one office in the same election.

(2) Only electors of the City, as defined by Section 5.1(a), of the City Charter, who have resided continuously in the City for at least one year preceding their qualifying date shall be eligible to hold the office of Mayor, or Council member.

(3) A person may not be a candidate for an open residential council member seat unless that person has resided in the residential area he or she seeks to represent, continuously for a period of one year preceding his/her qualifying date.

(4) If, at the conclusion of the qualifying period, no elector has filed or qualified for an open seat, or if the death, withdrawal or removal from the ballot of a qualified elector occurs, then the qualifying period for that open seat shall be reopened for a period of five business days and any qualified elector who resides in the relevant residential area and has resided continuously in the City for at least one year may file a written notice of candidacy for the open seat in accordance with the provisions of this Section.

(B) If, at the close of the qualifying period, there is only one duly qualified candidate for Mayor or for any City Council seat, that single candidate shall be considered elected automatically. The City Clerk shall not accept any oath or affirmation for filing unless the same is accompanied by the payment of the required qualifying fee, unless qualifying is via petition in which case the qualifying fee is waived.

SECTION 10. **Oath.**

Every candidate for the office of Mayor or City Council Member shall take, sign and subscribe to an oath providing written notice of their candidacy. The oath shall read as follows:

I _____, swear or affirm that I am candidate for the office of (specify Mayor, or City Council Member - Seat No. ____) for the City of Miami Gardens, Florida; that I am a qualified elector of the City of Miami Gardens, Miami-Dade County, Florida; that I have resided continuously in the City of Miami Gardens, Florida, for at least one year preceding today's date (and I have resided continuously for at least one year preceding today's date in the respective residential area from which I seek to qualify for election); that my legal residence is _____; that I am qualified under the ordinances and Municipal Charter of the City of Miami Gardens, and under the Constitution and the laws of Florida to hold the office to which I desire to be elected; that I have taken the oath required by Chapter 876, Florida Statutes; that I have 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 I now seek; that I have resigned from any office from which I am required to resign pursuant to § 99.012, Florida Statutes; that I have paid the required qualification fee; and that I agree to abide by Miami-Dade County's Ethical Campaign Practice Ordinance and any other laws promulgated by the City Council to insure fair and ethical campaigns.

SECTION 11. Names of qualified candidates to be printed on ballot.

All persons who have paid the qualifying fee and signed the oath, as provided in this Ordinance, shall be qualified candidates for the office of Mayor or City Council Member, as the case may be, at the next election, and the City Clerk shall print their names on the ballot in alphabetical order.

SECTION 12. Installation of new officers.

The City Council shall meet at 12:00 noon on the first day after a general election, and in the event a run-off election is necessary, the City Council shall also meet at 12:00 noon on the first day after said run-off election, for the purpose of receiving the certificate of election results from the City Clerk. The City Council shall accept the results thereof by resolution and shall declare the new officers to be elected, at which time the City Clerk shall administer the oath and the new officers shall be installed and shall enter upon the discharge of their duties. In the event a run-off election is necessary, the new officer(s) shall be declared elected subsequent to canvass of election returns on the day after said run-off election, at which time the City Clerk shall administer the oath, and the new officers shall be installed and shall enter upon the discharge of their duties.

SECTION 13. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 14. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 15. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1

hereof or the provisions contemplated thereby shall not be codified.

SECTION 16. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 23rd DAY OF FEBRUARY, 2005.

PASSED ON SECOND READING ON THE 9TH DAY OF March, 2005.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 9th DAY OF March, 2005.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: Shirley Gibson, Mayor

MOVED BY: Vice Mayor Campbell
SECONDED BY: Councilwoman King

VOTE: 6-0

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|-------------------------------|-----------------|----------------|-------------|
| Mayor Gibson | <u>x</u> (Yes) | <u> </u> (No) | |
| Vice Mayor Campbell | <u>x</u> (Yes) | <u> </u> (No) | |
| Councilman Melvin L. Bratton | <u>x</u> (Yes) | <u> </u> (No) | |
| Councilman Oscar Braynon, II | <u> </u> (Yes) | <u> </u> (No) | Not present |
| Councilwoman Audrey J. King | <u>x</u> (Yes) | <u> </u> (No) | |
| Councilwoman Sharon Pritchett | <u>x</u> (Yes) | <u> </u> (No) | |
| Councilwoman Barbara Watson | <u>x</u> (Yes) | <u> </u> (No) | |

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