

AN ORDINANCE PROVIDING FOR CERTAIN PROCEDURES TO FILL VACANCIES IN CANDIDACY FOR COUNCIL MEMBER CAUSED BY DEATH, WITHDRAWAL OR REMOVAL FROM THE BALLOT OF QUALIFIED CANDIDATES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, The Florida Legislature has enacted Section 166.031(6), Florida Statutes, requiring each municipality to provide procedures for filling a vacancy in a candidacy caused by the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office; and,

WHEREAS, the Town Council of the Town of Havana desires to adopt procedures in order to conform its ordinances to the requirements of the new State law,

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HAVANA, FLORIDA:

SECTION 1. There is hereby created a new Section under Chapter 9 of the Code of Ordinances of the Town of Havana pertaining to Elections to provide for procedures to fill vacancies in candidacy to read as follows:

Section 1. Vacancy in Candidacy For Town Council Member.

(a) If the withdrawal of a qualified candidate following the end of the qualifying period results in only one 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)(1) If the death or removal from the ballot of a qualified candidate following the end of the qualifying period results in only one candidate remaining for that office, a special election shall be scheduled by the Town Council not less than sixty days nor more than one-hundred twenty days after the vacancy in the candidacy has occurred.

(b)(2) If a special election is called pursuant to subsection (b)(1) above, a supplemental qualifying period shall be established beginning on the day the vacancy in the candidacy has occurred and

ending at 5:00 P.M. on the 32nd day prior to the date of the special election. Any candidate wishing to qualify during this supplemental qualifying period shall file the qualifying application in accordance with the Town Charter and Code prior to the end of the supplemental qualifying period.

(b)(3) The remaining candidate for that office shall not be required to re-qualify for election or pay a second qualifying fee. The remaining candidate shall not be declared an unopposed candidate under Chapter 106, Florida Statutes, unless no additional candidate qualifies for election during the supplemental qualifying period. The remaining candidate may continue to accept contributions until he is declared unopposed. If he is declared unopposed pursuant to this Section, he shall be declared elected and the special election shall be cancelled.

(b)(4) The filing of campaign expense statements pursuant to Chapter 106, Florida Statutes, by candidates in a special election called under subsection (b)(1) including the remaining candidate, shall not be later than such dates as fixed by the Town Clerk. In fixing such dates, the Town Clerk shall take into consideration and be governed by the practical time limitations and the dates established for such statements in a regular town election.

(b)(5) If a special election is called pursuant to subsection (b)(1) and other candidates qualify for election during the supplemental qualifying period, supplemental absentee ballots for the special election shall be mailed by the Town Clerk to any absentee voter who was mailed an absentee ballot for the regular election. If an absentee voter returns the initial ballot he was mailed, his vote for that office for which the special election was called will be null and void, but his votes on all other offices and issues shall be counted.

(c)(1) If the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period results in no candidates for an office, and more than 21 days remain prior to the date of the election, qualifying shall be reopened to allow candidates to qualify for the election to that office in accordance with the Town Charter and Code. Any candidate

wishing to qualify shall file the qualifying application in accordance with the Town Charter and Code no later than 5:00 P.M. of the 21st day prior to the date of the election. The Town Clerk shall promptly post notice at the Town Hall in a conspicuous place of the reopening of the qualifying period.

(c)(2) If less than 21 days remain to the election after the death, withdrawal, or removal from the ballot of the lone qualified candidate for an office, and if a vacancy shall result on the Town Council, the remaining Council members shall appoint by majority vote a person otherwise qualified to be a council member, and the person so appointed shall serve as Council member for the entire term. If the Council does not appoint a person to fill the vacancy within 30 days after the first regular Council meeting held after the vacancy has occurred, a special election shall be held in order to fill the vacancy for the unexpired portion of the entire term. The special election shall be held not less than 30 days nor more than 90 days after the initial 30 day period has expired.

(c)(3) If the qualifying period is reopened pursuant to Section (c)(1), supplemental absentee ballots reflecting the new candidates who have qualified for that office only shall be mailed by the Town Clerk as soon as possible to any absentee voter who was mailed an absentee ballot. If an absentee voter returns the initial ballot he was mailed, his vote for the office for which qualification was reopened will be null and void, but his votes on all other offices and issues shall be counted.

(d) The name of any qualified candidate who has withdrawn, died or been removed from the ballot shall not be printed on the ballot. If the ballot cannot be changed, any votes for that candidate shall be null and void.

(e) A candidate withdrawing or being removed from the ballot after having qualified and paid the qualification fee shall not receive a refund of the qualifying fee.

(f) Any or all of the duties prescribed above to be performed by the Town Clerk may be performed by the County Supervisor of Elections if the Town Council so directs by contract with the County Supervisor of Elections.

SECTION 2. That all sections or parts of sections of the Code of Ordinances of the Town in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 3. It is the intent of the Town Council and of the Town that this ordinance become a part of the Code of Ordinances of the Town of Havana, Florida and be codified for inclusion therein.

SECTION 4. This ordinance shall take effect upon its adoption and approval as provided by law.

INTRODUCED in open session of the Town Council of the Town of Havana, Florida, on the 31st day of March, A.D. 1992.

ADOPTED AND PASSED on second and final reading in open session of the Town Council of the Town of Havana, Florida, on the 28th day of April, A.D. 1992.

H. J. Davis
Presiding Officer of the Town
Council of the Town of Havana,
Florida

ATTEST:

Diana T. Best
Clerk of the Town of Havana and
Clerk of the Town Council thereof