



PERSSON, COHEN, MOONEY, FERNANDEZ & JACKSON, P.A.
ATTORNEYS AND COUNSELORS AT LAW

David P. Persson**
Andrew H. Cohen
Kelly M. Fernandez*
Maggie D. Mooney*
R. David Jackson*
Daniel P. Lewis
Amy T. Farrington

* Board Certified City, County and Local Government Law
** Retired

Telephone (941) 306-4730
Facsimile (941) 306-4832
Email: kfernandez@flgovlaw.com

Reply to: Venice

M E M O R A N D U M

DATE: April 15, 2025

TO: Mayor Pachota and City Council Members

CC: Ed Lavalley, City Manager
Kelly Michaels, City Clerk

FROM: Kelly M. Fernandez, City Attorney
Amy Farrington, Assistant City Attorney

SUBJECT: City of Venice Elections Code

During the November 2024 general election, the electors of the City of Venice approved a referendum amending the City Charter to revise the terms of elected officials. Subsequently, the City Attorney's Office and the City Clerk's Office reviewed the Elections Code in Chapter 22 of the City Code of Ordinances and identified some provisions that should be revised for consistency with the City Charter, as amended, and with state law. Below are proposed revisions and items that require additional discussion and review.

Sec. 22-1. Procedure for qualifying for office.

Every candidate for the office of mayor and/or councilmember shall qualify for such office by complying with the election code of the state, except that the qualification papers

~~and filing fee shall be filed with the city clerk. The qualification papers shall be filed with the city clerk~~ no earlier than noon of the 78th day and no later than noon of the 74th day prior to the ~~Tuesday next succeeding the first Monday~~first Tuesday after the first Monday in November ~~in each of each even-numbered~~ year for each municipal election. The qualification papers shall indicate the office for which the candidate is seeking qualification.

Rationale: Removes redundancies and mirrors language in state law.

Sec. 22-2. Candidate Names and Office for Ballot ~~Preparation of ballots.~~

After the time for qualification has expired, the city clerk shall forward to the county supervisor of elections the names of the candidates for the office of mayor and/or councilmember who have duly qualified in conformity with the provisions of this chapter and state law. The name of each candidate shall carry a designation of the office being sought.

Rationale: The Sarasota County Supervisor of Elections prepares ballots. This heading change more accurately reflects the purpose of the section.

Sec. 22-3. Designation of polling places and publication of notice.

~~At least 25 days prior to any municipal election, the city council shall, by ordinance or resolution, designate the polling places for such election; thereupon, the city clerk shall cause a notice to be published one time in a newspaper of general circulation in the city, setting forth the date of the election, the purpose thereof and the locations of the polling places.~~

Rationale: The designation of polling places is a responsibility of the Sarasota County Supervisor of Elections. Publication by the City is not required and causes confusion when the Supervisor of Elections has to change polling places.

Sec. 22-4. Voting machines or devices.

~~Electors other than absentee voters shall vote for the candidate of their choice, or on any question, such as bond authorization or other referenda submitted by ordinance or resolution of the city council, by use of voting machines or devices, in conformity with procedures substantially as set forth in the Florida Statutes used in state elections generally. The city clerk shall arrange with the appropriate county authorities for the use of such machines or devices at all elections.~~

Rationale: The manner and method of voting is exclusively handled by the Sarasota County Supervisor of Elections.

~~Sec. 22-5. Canvassing board.~~

~~In the years the city election is not held in conjunction with a county election, the canvassing board shall consist of the county supervisor of elections and the city clerk, and the mayor when not on the ballot, or alternatively, the mayor shall select a representative from the city council who is not on the ballot for that election.~~

Rationale: With the change in terms, a city canvassing board will only be required if a special election is called. Therefore, this has been moved to the new special elections section.

~~Sec. 22-3 26. Certification Presentation of election results.~~

The city clerk shall ~~transmit~~ present the ~~unofficial~~ certified returns of the municipal election to city council at a ~~special meeting set by the city clerk within the last 15 days of the month of November~~ on the Tuesday immediately following the certification of election. At such ~~special~~ meeting, city council shall ~~certify~~ receive the election results and the ~~winning certified~~ candidate(s) shall be sworn in. The city clerk shall furnish a certificate of election to each person shown to have been elected.

Rationale: The county canvassing board certifies general election results pursuant to Florida law. The City has no role and need not accept or approve the results. Per the Charter, the winning candidate takes office upon the certification of the election results by the county. The ceremonial swearing in can occur prior to the regular November meeting or at the start of the regular meeting. A special meeting is not required.

~~Sec. 22-7. Reserved.~~

~~Editor's note(s) Ord. No. 2023-32, § 2, adopted Sept. 12, 2023, deleted § 22-7 entitled "Political signs," which derived from Ord. No. 2005-30, § 2, adopted July 12, 2005.~~

~~Sec. 22-48. Discharge of duties.~~

City council members shall continue to hold their office and discharge their duties until their successor is duly certified as elected in accordance with article II, section 3.01 of the city Charter.

Sec. 22-5. Special Elections

(a) Special elections which fall outside of elections coinciding with already scheduled county elections shall be held pursuant to a written agreement with the Sarasota County Supervisor of Elections. This agreement will include procedural and expense matters including, but not

limited to, ballots, vote-by-mail, in-person voting, designation of election day and early voting polling places, publication of notices, voting machines, poll workers, and canvassing.

(b) For special election purposes only, the city canvassing board shall be composed of the city clerk, the mayor and the city manager. If any member of the canvassing board is unable to serve, is a candidate with opposition in the election being canvassed, or is an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed, such member shall be replaced as follows: (to be discussed)

Rationale: This section addresses how special elections will be handled. A city canvassing board is only needed for special elections. The composition of and requirements for the canvassing board are for Council discussion.

Section 22-6. Campaign Finance Reporting.

Specific language TBD.

Rationale: As the City does not have a primary, consider adding language to allow regular campaign finance reporting through the primary, and then follow the requirements of the Florida Election Code, s. 106.07, FS

Requested Action: Direct the City Attorney to draft an ordinance revising the Elections Code, as discussed.