

ORDINANCE NO. 05-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA AMENDING CHAPTER 32. ELECTIONS. TO PROVIDE THAT THE TOWN WILL PAY SUPERVISOR OF ELECTIONS PETITION VERIFICATION FEES FOR ALL CANDIDATES FOR MAYOR, TO REPEAL SPECIAL ELECTION REQUIREMENTS ASSOCIATED WITH FILLING VACANCIES ON THE TOWN COUNCIL, AND TO PROVIDE INTERNAL CONSISTENCY EDITS; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 32. ELECTIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE; A SEVERABILITY CLAUSE, AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the current Town of Briny Breezes code requires candidates for the office of Mayor to obtain petitions and have those petitions verified by the Palm Beach County Supervisor of Elections (SOE); and

WHEREAS, the SOE charges a nominal fee to verify all such petitions, and candidates are required to pay this fee in conjunction with their qualifying for office; and

WHEREAS, the payment of these fees necessitates candidates opening a campaign account even if they spend no other funds related to their qualifying and election, which is typically the case for unopposed candidates; and

WHEREAS, due to the challenges associated with opening a campaign account, coupled with the nominal amount of the SOE fee, Town administration recommends that the Town assume responsibility for paying these SOE fees for all candidates for the office of Mayor; and

WHEREAS, the Town Council desires to accept the recommendation of Town Administration, finding said recommendation to be in the best interests of the Town and its residents; and

WHEREAS, due to the high cost of conducting a special election, the Town Council also desires to eliminate the requirement to conduct a special election to fill Town Council vacancies in the event that appointment deadlines are not met; and

WHEREAS, the Town Council also desires to adopt non-substantive internal consistency edits to its elections code to provide for a cleaner, more readable document..

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRINY BREEZES, FLORIDA, THAT:

Section 1: Chapter 32. Elections. of the Code of Ordinances of the Town of Briny Breezes is hereby amended to provide that the Town will pay Supervisor of Elections petition verification fees for all candidates for Mayor, to repeal special election requirements associated with filling vacancies on the Town Council, and to provide internal consistency edits; providing that Chapter 32. Elections. shall hereafter read as follows:

CHAPTER 32: ELECTIONS

Section

- 32.01 State election laws
- 32.02 Permanent single registration system
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- 32.04 Precinct
- 32.05 Qualification of electors
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- 32.13 Candidate information to Supervisor of Elections
- 32.14 Canvass of returns; certificate of election
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- 32.16 Date for taking office
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- 32.18 Death, withdrawal or removal of a candidate
- 32.19 Vacancy in candidacy
- 32.20 Filling an office due to vacancy in candidacy
- 32.21 Oath of office
- 32.22 Filling a vacancy in an incumbent's office

§ 32.01 STATE ELECTION LAWS.

(A) Except as otherwise provided under this chapter, all town elections shall be conducted pursuant to the Florida Election Code, consisting of F.S. Ch. 97 through 106, inclusive, and such Special Acts of Florida as may be applicable.

(B) The ballots in town elections shall conform as nearly as possible to the form of ballot prescribed by the general election law of the state, and requirements of the Palm Beach County Supervisor of Elections.

(C) The general law in regard to absentee ballots and mail-in ballots shall apply to all absentee ballots and mail-in ballots for elections within the town, which ballots shall be issued by the Palm Beach County Supervisor of Elections.

(D) Pursuant to F.S. § 100.3605, the The town hereby exercises its right to exempt itself from the applicable provisions of F.S. § 101.657, of the Florida Election Code, which relates to and provides for the methods and procedures for early voting in elections. The town shall not provide for early voting in its municipal elections.

§ 32.02 PERMANENT SINGLE REGISTRATION SYSTEM.

A permanent single registration system for the registration of electors to qualify them to vote in all town elections is hereby established to conform to the requirements of F.S. Ch. 98, as hereinafter revised and amended. Electors in town elections shall be registered pursuant to this system by the Palm Beach County Supervisor of Elections. Electors so registered shall not thereafter be required to register or re-register, except as provided by law.

§ 32.03 USE OF SYSTEM BY TOWN.

(A) The Palm Beach County Board of County Commissioners, with the concurrence of the Palm Beach County Supervisor of Elections, may arrange the boundaries of the town's election precinct to conform to the boundaries of the town, subject to the concurrence of the Town Council.

(B) The Palm Beach County Supervisor of Elections shall deliver the records required for a town election to the Town Council on a timely basis before the election and collect them promptly after the election is completed.

§ 32.04 PRECINCT.

There shall be one precinct for the town, which shall consist of the entire town.

§ 32.05 QUALIFICATION OF ELECTORS.

Every citizen of the United States who is at least 18 years of age, who is a legal resident of the state, of the county, and of the town at the time of the holding of a town election, who is registered pursuant to the Florida Election Code, and who is otherwise qualified to vote under the laws of the state, shall be authorized to vote at such town election.

§ 32.06 DATES FOR HOLDING ELECTIONS.

Regular town elections shall be held each year on the second Tuesday in March, except for the town's municipal election in 2016 and in each subsequent year that is a multiple of four if the Palm Beach County Supervisor of Elections schedules the municipal elections to be on the same date as the state presidential preference primary. In those years wherein the Palm Beach County Supervisor of Elections schedules the municipal elections to be on the same date as the state presidential preference primary, the regular town election shall be held on the election date designated by the Palm Beach County Supervisor of Elections. In any year wherein the scheduling of the state presidential preference primary does not cause the Palm Beach County Supervisor of Elections to change the schedule of the municipal election date, the regular town election shall be held as usual, on the second Tuesday in March. Special town elections shall be held whenever required by law, or as deemed necessary pursuant to a resolution ~~the order~~ of the Town Council.

§ 32.07 NO PRIMARY ELECTIONS FOR TOWN CANDIDATES.

No primary elections shall be required to determine candidates for any elective office of the town.

§ 32.08 ARRANGEMENTS FOR ELECTIONS.

(A) The Town Council shall make all arrangements necessary for holding all town elections, and shall declare the results thereof.

(B) The Town Council hereby authorizes the Palm Beach County Supervisor of Elections to perform, authenticate and certify the logic and accuracy test for the election machines and equipment assigned for use in all elections held within the town.

§ 32.09 TOWN ELECTION CANVASSING BOARD; INSPECTORS AND CLERKS; SUPERVISOR OF ELECTIONS.

(A) A Town Election Canvassing Board, consisting of the Canvassing Board established by Palm Beach County, consisting of the Palm Beach County Supervisor of Elections, the Mayor of Palm Beach County, and one circuit court judge from the 15th Judicial Circuit, or their designees, shall be the canvassing board for the town.

(B) The Town Council hereby authorizes the Palm Beach County Supervisor of Elections to distribute, count and canvass the town's absentee ballots and mail-in ballots cast in all elections held within the town.

§ 32.10 NOTICE OF ELECTION.

(A) The Town Council shall issue a proclamation calling any general and special election, except as herein otherwise provided, stating therein the date for the election, where the same shall be held, naming the offices and vacancies to be filled or questions to be decided, the dates fixed for qualifying for office, and the dates fixed for filing campaign expense statements.

(B) The Town Clerk or designee shall cause the same to be posted not less than 30 days prior to the beginning of qualifying for the election, in two public places in the town.

(C) The Town Clerk or designee shall deliver a copy of the notice of election to the Palm Beach County Supervisor of Elections.

(D) The Town Clerk or designee shall publish the notice of election once in a newspaper of general circulation, to appear not less than ten days prior to the beginning of the qualifying period for the election.

§ 32.11 ADDITIONAL REQUIREMENTS FOR SPECIAL ELECTIONS.

(A) The Town Council shall not set the date for any special election without obtaining prior consent from the Palm Beach County Supervisor of Elections that such date is available and that the Palm Beach County Supervisor of Elections is available to canvass such special election as required by F.S. § 100.151.

(B) The Town Clerk or designee shall publish notice of the special election in a newspaper of general circulation, to first appear at least 30 days prior to the election. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election is to be held.

§ 32.12 CANDIDATES FOR TOWN OFFICE.

(A) (1) *Town Council.* Any qualified elector may become a candidate for a Town Council Alderman seat to be filled at any election by filing a written application with the Town Clerk or designee ~~Assistant/Deputy Town Clerk~~, stating that: he or she intends to be a candidate for an Alderman seat at such election; the seat number (Alderman - seats one through five) of the office sought; that he or she is qualified under the Constitution and laws of the state and the laws and ordinances of the town to hold the office sought; that he or she has not violated any of the laws of the state or the town relating to elections or registration of voters; and requesting that his or her name be placed upon the ballot for the office of Alderman seat number being sought. Such application shall be signed and sworn to by the candidate before a notary public or other officer authorized to administer oaths.

(2) *Mayor.* Any qualified elector may become a candidate for the office of the Town Mayor by filing with the Town Clerk or designee ~~Assistant/Deputy Town Clerk~~, all of the following:

(a) Completed candidate petition forms (current version of Form DS-DE 104) executed by at least 20 electors of the town, requesting the name of the proposed candidate be placed on the ballot for the office of Town Mayor to be voted on at the next general or special election at which the office of Mayor will be elected.

(b) Completed written application stating that: he or she intends to be a candidate at such election; the title of the office sought (Mayor- seat six); that he or she is qualified under the Constitution and laws of the state and the laws and ordinances of the town to hold the office sought; that he or she has not violated any of the laws of the state or the town relating to elections or registration of voters; and requesting that his or her name be placed upon the ballot. Such application shall be signed and sworn to by the candidate before a notary public or other officer authorized to administer oaths.

(c) Payment of the applicable verification fee ~~made payable~~ to the Palm Beach County Supervisor of Elections for the cost of verifying each petition form signature shall be made by the Town on behalf of the candidate(s).

~~(B) (1) For the 2018 elections, the candidate's application shall be filed with the Town Clerk no earlier than noon on the first Tuesday in December, nor later than noon on the third Tuesday in December in the year 2017.~~

~~—(2) On all subsequent elections, the The candidate's application shall be filed with the Town Clerk or designee Assistant/Deputy Town Clerk no earlier than noon on the second Tuesday in November, nor later than noon on the fourth Tuesday in November preceding the calendar year in which the election is to be held.~~

§ 32.13 CANDIDATE INFORMATION TO SUPERVISOR OF ELECTIONS.

The Town Clerk or designee Assistant/Deputy Town Clerk shall provide the names of all candidates and the offices for which they have filed with the Palm Beach County Supervisor of Elections no later than 5:00 p.m. on the first Friday following the end of the qualifying period.

§ 32.14 CANVASS OF RETURNS; CERTIFICATE OF ELECTION.

The result of the voting when ascertained and certified by the Town Election Canvassing Board, shall be delivered to the Town Clerk. The Town Clerk shall, not later than noon of the second day after receipt of the certified results of the election, furnish a certificate of election to each person shown to have been elected.

§ 32.15 DETERMINATION OF ELECTION RESULTS.

(A) The person receiving the highest number of votes for the office sought shall be declared to be elected to the office. Upon receipt of the certified results of the election from the Town Clerk, the Town Council shall declare the results at a public meeting to be held the first Tuesday thereafter.

(B) A tie between two or more candidates for an office shall be decided by lot to be conducted by the Town Clerk.

(C) No run-off elections shall be required to determine which candidates are elected to town office.

§ 32.16 DATE FOR TAKING OFFICE.

Candidates Officers elected to town office by the electorate shall assume the duties of their office on the first Tuesday following certification of their election. Candidates Officers appointed to town office by the Town Council shall assume their duties immediately, or as provided by their appointment.

§ 32.17 UNOPPOSED CANDIDATE ON BALLOT.

Whenever only one qualified candidate appears on the ballot for election to an office, whether due to non-opposition for that office or caused by the death, withdrawal or

removal of an opposing candidate from the ballot, the sole candidate shall be declared automatically elected, and no election for that office shall be required.

§ 32.18 DEATH, WITHDRAWAL OR REMOVAL OF A CANDIDATE.

(A) In the event of the death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period, that candidate's name shall be stricken from the ballot provided for that election. The stricken ~~That~~ candidate's name shall not be printed or be on the ballot or be shown as a candidate on any voting papers. If the ballot cannot be changed, any votes for that candidate's name shall be null and void.

(B) If such omission leaves only one qualified candidate on the ballot for that office, that candidate shall be an unopposed candidate and declared automatically elected and no election for that office shall be required.

§ 32.19 VACANCY IN CANDIDACY.

A vacancy in candidacy shall exist when no candidate has applied and qualified to be on the ballot for that office, or as the result the death, withdrawal or removal from the ballot of all qualified candidates following the end of the qualifying period. Whenever there is no qualified candidate on the ballot for an office, that office shall be declared vacant on the ballot for that election.

§ 32.20 FILLING AN OFFICE DUE TO VACANCY IN CANDIDACY.

At its first meeting after the election, the Town Council shall declare any office that was left unfilled due to a vacancy in candidacy to be a vacant office. The Council, by plurality vote, shall appoint a qualified elector to fill that vacancy for the full term of that office. ~~If the Council fails to fill the vacancy in office at its next regular meeting thereafter, the Council shall call a special election for such purpose, in accordance with the requirements in Town Code §§ 32.10 and 32.11.~~

§ 32.21 OATH OF OFFICE.

(A) Before undertaking their official duties, those elected or appointed to town office shall take an ~~the following~~ oath of office in substantially the following form:

"I, (name), do solemnly swear (or affirm) that I will support, protect and defend the constitution and government of the United States and of the State of Florida against all enemies, domestic or foreign, and that I will bear true faith, loyalty and allegiance to the same, and that I am entitled to hold office under the constitution; that I will faithfully perform all the duties of the office of (title) of the Town of Briny Breezes on which I am about to enter. So help me God."

(B) Thereupon those so elected or appointed shall be considered to assume the functions and powers of their office and to enter upon their several duties as said officers of the town.

§ 32.22 FILLING A VACANCY IN AN INCUMBENT'S OFFICE.

(A) If a vacancy occurs in any office due to the death, resignation or removal from office of an incumbent official, the Town Council, by plurality vote, shall appoint a qualified elector to fill that vacancy for the remainder of the unexpired term. ~~If the Council fails to fill said vacant office at or before the Council's second regular meeting after said vacancy has occurred, the Council shall call a special election for such purpose, in accordance with the requirements of Town Code §§ 32.10 and 32.11.~~

(B) Each Alderman shall be qualified to vote to fill any vacancy in a town office at any regular meeting of the Town Council or at any special meeting called for that purpose.

Section 2: Each and every other section and subsection of Chapter 32. Elections. shall remain in full force and effect as previously adopted.

Section 3: All ordinances or parts of ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon adoption.

FIRST READING this 25 day of August, 2022.

SECOND AND FINAL READING this 22 day of September 2022.

TOWN OF BRINY BREEZES

TOWN COUNCIL OF THE TOWN OF BRINY BREEZES

Samuel Gene Adams
Samuel Gene Adams, Mayor

Susan Thaler
Susan Thaler, President

Christina Adams
Christina Adams, Alderman

(SEAL)



Elizabeth (Liz) Loper
Elizabeth (Liz) Loper, Alderman

Bill Birch
Bill Birch, Alderman

Kathleen M Gross
Kathleen Gross, Alderman

Attest:

Sandi DuBose
Sandi DuBose, Town Clerk

Approved as to Form and Legal Sufficiency:

Keith W. Davis
Keith W. Davis, Town Attorney
TOWN OF BRINY BREEZES