



To: Walter Foeman

From: Craig E. Leen, City Attorney for the City of Coral Gables

RE: Legal Opinion Regarding Resign-to-Run Law

Date: November 30, 2016

---

The City Clerk requests guidance regarding what process needs to be followed if a Commissioner intends to run for Mayor during a year in which the Commissioner's term does not expire.

Pursuant to Sec. 1 of the City of Coral Gables Charter, as modified by Sec. 1.1 (which was recently enacted by referendum), "[a]ny Commissioner whose term of office does not expire at noon [on the third Friday after the general election], desiring to run for the office of Mayor shall present an irrevocable resignation of his office of Commissioner to the City Commission not less than 60 days prior to the date of the election, and said resignation shall become effective at noon [on the third Friday after the general election].<sup>1</sup> Upon receipt of the resignation, the Commission shall make [a] public announcement by resolution accepting the resignation and instructing the Clerk to accept qualified candidates to run for election for the unexpired term of the resigning Commissioner for the purpose of running for Mayor."

Pursuant to Sec. 99.012(3), F.S., a municipal officer must irrevocably resign from the office he/she currently holds by submitting a written resignation at least 10 days prior to the first day of qualifying for the office he/she intends to seek. Said resignation must be submitted to the officer before whom he/she qualified for the office he/she holds with a copy to the Governor and the Department of State. Said resignation must be effective on the earlier of the date the officer would take office or the date the officer's successor is required to take office.

In 2017, the City of Coral Gables will hold its General Biennial Municipal Election on April 11, 2017 and the qualification period for the election will run from February 20 - February 24, 2017. In order to comply with both the City Charter and state law, the sitting Commissioner must

---

<sup>1</sup> Sec. 1.1 of the revised Charter pursuant to the charter review process of 2016 provides for elected officials to take office on the third Friday after the general election. This section also provides that it shall take precedence over any conflicting provisions of the Charter.

submit his/her written prospective irrevocable resignation to the City Commission, the City Clerk, the Governor and the Department of State by February 10, 2017 which is at least 60 days prior to the date of the election and at least 10 days prior to the first day of qualification.

Pursuant to Sec. 99.012(f)(1), the election for the vacant commission seat may occur at the regularly scheduled general election in April 2017 for the remainder of the resigning commissioner's term.

This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code giving the City Attorney's Office the authority to issue opinions and interpretations on behalf of the City.

**From:** [Leen, Craig](#)  
**To:** [Paulk, Enga](#)  
**Cc:** [Ramos, Miriam](#)  
**Subject:** FW: City Attorney Opinion regarding Resign-to-Run Law  
**Date:** Wednesday, November 30, 2016 3:06:10 PM  
**Attachments:** [City Attorney Opinion regarding Resign to Run Law.pdf](#)  
[image001.png](#)

---

Please publish today.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
City of Coral Gables  
405 Biltmore Way  
Coral Gables, Florida 33134  
Phone: (305) 460-5218  
Fax: (305) 460-5264  
Email: [cleen@coralgables.com](mailto:cleen@coralgables.com)



*Celebrating 90 years of a dream realized.*

---

**From:** Leen, Craig  
**Sent:** Wednesday, November 30, 2016 3:04 PM  
**To:** Foeman, Walter  
**Cc:** Ramos, Miriam  
**Subject:** City Attorney Opinion regarding Resign-to-Run Law

Mr. Clerk,

In response to your legal inquiry regarding the resign-to-run law, please see the attached City Attorney Opinion.

**Craig E. Leen, City Attorney**

*Board Certified by the Florida Bar in  
City, County and Local Government Law*  
City of Coral Gables

405 Biltmore Way  
Coral Gables, Florida 33134  
Phone: (305) 460-5218  
Fax: (305) 460-5264  
Email: [clean@coralgables.com](mailto:clean@coralgables.com)



*Celebrating 90 years of a dream realized.*

**CITY OF CORAL GABLES**  
**CITY ATTORNEY'S OFFICE**

OPINION REGARDING RESIGN-TO-RUN

The City Clerk requests guidance regarding what process needs to be followed if a Commissioner intends to run for Mayor during a year in which the Commissioner's term does not expire.

Pursuant to Sec. 1 of the City of Coral Gables Charter, as modified by Sec. 1.1 (which was recently enacted by referendum), "[a]ny Commissioner whose term of office does not expire at noon [on the third Friday after the general election], desiring to run for the office of Mayor shall present an irrevocable resignation of his office of Commissioner to the City Commission not less than 60 days prior to the date of the election, and said resignation shall become effective at noon [on the third Friday after the general election].<sup>1</sup> Upon receipt of the resignation, the Commission shall make [a] public announcement by resolution accepting the resignation and instructing the Clerk to accept qualified candidates to run for election for the unexpired term of the resigning Commissioner for the purpose of running for Mayor."

Pursuant to Sec. 99.012(3), F.S., a municipal officer must irrevocably resign from the office he/she currently holds by submitting a written resignation at least 10 days prior to the first day of qualifying for the office he/she intends to seek. Said resignation must be submitted to the officer before whom he/she qualified for the office he/she holds with a copy to the Governor and the Department of State. Said resignation must be effective on the earlier of the date the officer would take office or the date the officer's successor is required to take office.

In 2017, the City of Coral Gables will hold its General Biennial Municipal Election on April 11, 2017 and the qualification period for the election will run from February 20 - February 24, 2017. In order to comply with both the City Charter and state law, the sitting Commissioner must submit his/her written prospective irrevocable resignation to the City Commission, the City Clerk, the Governor and the Department of State by February 10, 2017 which is at least 60 days prior to the date of the election and at least 10 days prior to the first day of qualification.

Pursuant to Sec. 99.012(f)(1), the election for the vacant commission seat may occur at the regularly scheduled general election in April 2017 for the remainder of the resigning commissioner's term.

This opinion is issued pursuant to Sections 2-201(e)(1) and (8) of the City Code giving the City Attorney's Office the authority to issue opinions and interpretations on behalf of the City.

November 2016

---

<sup>1</sup> Sec. 1.1 of the revised Charter pursuant to the charter review process of 2016 provides for elected officials to take office on the third Friday after the general election. This section also provides that it shall take precedence over any conflicting provisions of the Charter.