

## **MEMORANDUM TO CHARTER REVIEW COMMITTEE**

**DATE:** January 14, 2020

**RE:** Qualifying Fee

### **RELEVANT CHARTER PROVISIONS:**

#### **Sec. 4.05: - Acceptance; qualifying fee; time for qualification.**

(1) Candidates for Mayor-Commissioner and Commissioners must pay to the city clerk a qualifying fee of fifty dollars (\$50.00), accompanied by a signed notice of candidacy in the form specified by ordinance. The city clerk shall deliver to the candidate a copy of the fully executed notice of candidacy.

(2) The time for qualification shall be established by ordinance, but shall be consistent with state law.

(Ord. No. 86-14, §§ 1, 2, 6-3-1986; Ord. No. 2001-01, § 3, 1-16-2001; Ord. No. 2003-28, § 2, 11-18-2003; Ord. No. 2006-04, § 1 (6.05), 1-17-2006)

### **OTHER RELEVANT LAW**

#### **Fla. Stat. Sec. 100.3605. Conduct of municipal elections**

(1) The Florida Election Code, chapters 97-106, shall govern the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. No charter or ordinance provision shall be adopted which conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.

(2) The governing body of a municipality may, by ordinance, change the dates for qualifying and for the election of members of the governing body of the municipality and provide for the orderly transition of office resulting from such date changes.

#### **99.0955. Candidates with no party affiliation; name on general election ballot**

(1) Each person seeking to qualify for election as a candidate with no party affiliation shall file his or her qualifying papers and pay the qualifying fee or qualify by the petition process pursuant to s. 99.095 with the officer and during the times and under the circumstances prescribed in s. 99.061. Upon qualifying, the candidate is entitled to have his or her name placed on the general election ballot.

(2) The qualifying fee for candidates with no party affiliation shall consist of a filing fee and an election assessment as prescribed in s. 99.092. Filing fees paid to the Department of State shall be deposited into the General Revenue Fund of the state. Filing fees paid to

the supervisor of elections shall be deposited into the general revenue fund of the county.

**Fla. Stat. Sec. 99.092. Qualifying fee of candidate; notification of Department of State**

- (1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the petition process pursuant to s. 99.095 and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be transferred to the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify.

**ISSUE OR QUESTION:**

Per Ms. Sims: Raise to \$100? To ensure that the candidate is serious and not just putting their name. In previous years we had candidates that did the minimum needed to be on the ballot and nothing else.

**ANALYSIS AND COMPARATIVE LEGAL REVIEW:**

The City currently charges a \$50 qualifying fee as prescribed by Charter. In addition, the City collects the mandatory 1% of salary election assessment. Pursuant to Florida Statutes, the election assessment is required. However, the City may set the qualifying filing fee for the nonpartisan offices at any rate by charter or ordinance. If the City did not set a rate, the qualifying rate would be the default 3% of allocated salary pursuant to Florida Statute.

The qualifying fee would go to offset the cost of city elections and would be considered a revenue generated by the City Clerk's office. Any reasonable qualifying fee set in consideration of the costs of elections is likely to be upheld by the courts.

A review of the Municode library reveals that most municipalities address qualifying fees by way of ordinance, not charter. Below are some potentially relevant Charter provisions that were identified on this subject:

**Plantation, FL Charter Section 17. - Procedure for becoming candidates; payment of the municipal qualifying fee.**

(a)The name of any elector of the City shall be submitted by the City Clerk to the Supervisor of Elections to be printed upon the ballot after:(1)the elector has provided proof of residency in the city for a minimum of one (1) year prior to the opening of the qualifying period in the form of an Affidavit made under oath; and,(2)has paid to the City Clerk a qualifying fee in the amount of two hundred fifty dollars (\$250.00) for a seat on the City Council and five hundred dollars (\$500.00) for the Office of Mayor, which shall be non-refundable at the end of the qualifying period; and,

**Panama City, FL Charter Sec. 10-16. - Qualifying fee to be paid by candidate.**

Any candidate for mayor-commissioner at large or commissioner in any election being held to elect said official shall be entitled to have his name printed on the ballot as a candidate upon being qualified as provided by this charter, and filing with the city clerk, during the qualifying period, as provided by section 10-5 of this chapter, during the regular business hours of the city, an affidavit asserting his candidacy and stating that he is legally qualified as a candidate, accompanied by a qualifying fee of five percent of the yearly compensation of the office. In lieu of paying a qualifying fee a candidate for mayor-commissioner at large or commissioner may qualify by petition as provided for by Florida Statutes.

(Ord. No. 2327, § 16, 10-14-2008)

**Wilton Manors, FL Charter Sec. 2. - Date of election; candidates qualifying fee and acceptance of candidacy.**

(a)All general elections relating to a municipal office in the City of Wilton Manors shall be held on the first Tuesday after the first Monday in November of every even numbered calendar year, in accordance with State of Florida Law.

(b)The name of any elector who must be a resident of the city shall be printed upon the ballot and become a candidate for any office after he has paid to the city clerk a qualifying fee in the amount of fifty dollars (\$50.00) and has filed with the city clerk his written acceptance of such candidacy, which acceptance shall state that if elected he will qualify and serve in such office during the term for which he is elected. It shall be the duty of the city clerk forthwith on the paying of said qualifying fee and filing of such acceptance to make and deliver to such candidate a written certificate acknowledging the receipt of said qualifying fee and such acceptance.