

## CITY COUNCIL REPORT

DATE: June 3, 2016

TO: Mayor and City Council

FROM: Elizabeth A. Burke, MMC, City Clerk

CC: Josh Copley City Manager; Barbara Goodrich; Deputy City Manager; Shane Dille, Deputy City Manager; Sterling Solomon, Interim City Attorney; Stacy Saltzburg, Deputy City Clerk

SUBJECT: Information Request re Nomination Petitions / Electronic Signatures / Barriers

In response to a request for information regarding the nomination petition process, electronic signatures, and potential barriers to running for office, the following provides such information.

### **Number of Signatures Required on Nomination Petitions for City Council / Mayor**

The Flagstaff City Charter dictates the number of signatures required for nomination petitions, which is consistent with State law.

***Art. IX, Sec. 4 of the Flagstaff City Charter reads:***

*“The petition or petitions for nomination, consisting of signatures of qualified voters, aggregating not less than five (5) percent, nor more than ten (10) percent of the number of electors voting at the last preceding municipal General Election, shall be presented to the City Clerk....”*

To determine the number of signatures required in cities, municipalities add together the total number of qualified votes cast for Mayor at the most recent general election. In the case of Flagstaff, that total was 15,417 in the 2014 General Election. In applying this formula the minimum required was 770.85, or 771 (rounded) and the maximum number was 1,541.7, or 1,542 (rounded).

The only way to change these requirements would be to either change state statute through the State Legislature, or change the City Charter through a vote of the citizens. Due to the complexity of charter versus statute issues related to elections in Arizona, it is quite possible that such a change to the charter, if approved, would be challenged.

### **Acceptance of Electronic Signatures for Nomination Petitions in Cities/Towns**

HB2049 was signed by the Governor on March 30, 2016, and has an effective date of December 31, 2016. Rather than explain the bill, below is the actual text of this new law:

**16-317. Secure online signature collection; municipal, county and precinct committeeman offices**

**A. NOTWITHSTANDING ANY OTHER STATUTE IN THIS TITLE, THE SECRETARY OF STATE SHALL PROVIDE A SYSTEM FOR QUALIFIED ELECTORS TO SIGN A NOMINATION PETITION FOR CANDIDATES FOR CITY OR TOWN OFFICE, COUNTY OFFICE AND THE OFFICE OF PRECINCT COMMITTEEMAN BY WAY OF A SECURE INTERNET PORTAL. THE SYSTEM SHALL ALLOW ONLY THOSE QUALIFIED ELECTORS WHO ARE ELIGIBLE TO SIGN A PETITION FOR A PARTICULAR CANDIDATE TO SIGN THE PETITION, SHALL PROVIDE A METHOD FOR THE QUALIFIED ELECTOR'S IDENTITY TO BE PROPERLY VERIFIED AND SHALL PROVIDE FOR THE SECRETARY OF STATE TO TRANSMIT THOSE FILINGS OR A FACSIMILE OF THOSE FILINGS TO THE OFFICER IN CHARGE OF ELECTIONS FOR THE APPROPRIATE OFFICE. A CANDIDATE MAY CHOOSE TO COLLECT UP TO THE MINIMUM NUMBER OF REQUIRED NOMINATION PETITION SIGNATURES BY USE OF THE ONLINE SIGNATURE COLLECTION SYSTEM PRESCRIBED BY THIS SECTION.**

**B. THIS SECTION APPLIES ONLY TO CANDIDATES FOR CITY OR TOWN ELECTED OFFICE, COUNTY OFFICE AND THE OFFICE OF PRECINCT COMMITTEEMAN.**

The ability for statewide and legislative candidates to obtain signatures electronically has been available via A.R.S. 16-317, but is limited to allowing its use for only one-half of the required number of signatures. The Final Fact Sheet for this bill specifically states that it permits a candidate's use of this online signature collection system to collect up to the minimum number of required nomination petition signatures.

**Potential Barriers**

Potential barriers that an individual may face to run as a candidate could be any/all of the qualifications to be a candidate, which also requires one to be a qualified elector. Below are the requirements of each.

Qualifications to be a Qualified Elector

A qualified elector is deemed to be any person whose name appears on the register for the last preceding general election, or who has registered subsequently, and is otherwise qualified.

To register to vote, an individual must possess all of the following qualifications:

1. Proof of United States citizenship.
2. Age of eighteen years or more on or before the regular general election next following his registration.
4. Residency in the city or town for twenty-nine days prior to the election. (Art. IX, Sec. 2 of the Flagstaff City Charter requires electors to be residents of the City for at least thirty days prior to the election).

5. Ability to write one's own name or make his mark unless prevented by physical disability.

### Disqualifications

In Arizona, a person, by law, may be disqualified from voting for the following reasons:

1. Being under guardianship. Persons under guardianship are those deemed incapable of managing their own affairs and placed by law under the control of another person with respect to their relations to third persons.
2. Having been adjudicated an "incapacitated person"; i.e., lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.
3. Having been convicted of a felony or of treason, unless restored to civil rights.

### Qualifications to be a Candidate

1. A candidate for local office must be a qualified elector at the time of filing their nomination paper.
2. A candidate must be eighteen years of age and be able to speak, write and read the English language.
3. Candidates must also have resided in the city for one year preceding the election.
4. A person convicted of a felony cannot serve until their civil rights have been restored.
5. A person deemed "incapacitated person" could not be a candidate because they would not possess voter qualifications.
6. A member of the State Legislature is prohibited from holding office in a city.
7. Employees of the State government, under the jurisdiction of the state personnel system, are prohibited from being nominated for or being elected to any paid office by statute.
8. A person who holds another public office may be precluded from holding a municipal office by reason of incompatibility of office.
9. The Arizona Constitution prohibits an incumbent of a salaried elective office from offering himself for nomination or election to another salaried elective office, except during the final year of the term being served.