



# **MEMORANDUM**

**Office of the City Attorney**

**TO:** Mayor and City Commissioners

**DATE:** June 6, 2017

**FROM:** Daniel M. Nee, Litigation Attorney

**FOR INFORMATIONAL  
PURPOSES ONLY**

**SUBJECT: Elector Qualifications for Municipal Elections**

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At the June 1, 2017 City Commission meeting, the issue of elector, or voter, qualifications was raised and referred to the General Policy Committee. In Florida law, the terms “voter” and “elector” are synonymous. Specifically, questions were raised as to whether the City could expand voting rights in municipal elections to include non-US citizens, convicted felons whose rights have not been restored, and residents under the age of 18. In short, the Commission inquired whether the City, for the purposes of municipal elections, may deviate from the qualifications to register or vote set forth in the Florida Statutes. The answer is “no”.

Florida Statutes Chapters 97-106 comprise the Florida Election Code. Section 97.041 restricts voting to registered voters, and delineates the requirements for registration:

- at least 18 years of age;
- citizen of the United States;
- legal resident of the State of Florida;
- legal resident of the county in which registration is sought; and
- registration pursuant to the Florida Election Code.

Additionally, section 97.041 denies registration and voting to:

- persons who have been adjudicated mentally incapacitated with respect to voting and have not had their voting rights restored, and
- persons who have been convicted of a felony and have not had their voting rights restored.

Per section 100.3605(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.” However, the issue of registration and qualifications to vote was specifically preempted by the State with the establishment of a statewide permanent single registration system that expressly applies to municipalities. Section 97.105 provides, “A permanent single registration system for the registration of electors to qualify them to vote in all elections is provided for the several counties and municipalities. This system shall be put into use by all municipalities and shall be in lieu of any other system of municipal registration. Electors shall be registered pursuant to this system by a voter registration official, and electors registered shall not thereafter be required to register or reregister except as provided by law.” Consequently, the City may not create alternative or supplemental criteria for the qualification and registration of

electors. Consistently, section 166.032 states, “Any person who is a resident of a municipality, who has qualified as an elector of this state, and who registers in the manner prescribed by general law and ordinance of the municipality shall be a qualified elector of the municipality.”

In sum, in order to be a qualified elector of a Florida municipality, a person must be a registered qualified elector of the State of Florida, and the State defines the qualifications.