

ORDINANCE NO. 02-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA; AMENDING SECTION 2-26 OF THE CITY CODE REGARDING THE ELECTION QUALIFYING PERIOD REQUIREMENTS FOR THE OFFICE OF MAYOR AND CITY COUNCIL IN ACCORDANCE WITH SECTION 1 OF ARTICLE XVII OF THE CITY CHARTER; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City is governed by a municipal charter and is granted the authority, under § 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Section Article III and Article XVII of the City Charter sets forth the eligibility requirements for candidates for the office of mayor and city council; and

WHEREAS, a municipal corporation created by charter derives all its powers from the charter under which it acts as a body corporate and politic. See Abell v. Town of Boynton, 117 So. 507 (Fla. 1928) (charter as defining powers and duties); Gontz v. Cooper City, 228 So. 2d 913 (Fla. 4th DCA 1969) (paramount law of municipal corporation as its charter giving municipality all powers it possesses unless other statutes applicable to it; Clark v. North Bay Village, 54 So. 2d 240 (Fla. 1951); and

WHEREAS, Section 99.021, Florida Statutes, requires each candidate, in order to qualify for nomination or election to any office other than a judicial office as defined in chapter 105 or a federal office, shall take and subscribe to an oath or affirmation in writing that says, in part, that he or she is qualified under the Constitution and the laws of Florida to hold the office to which he or she desires to be nominated or elected; and

WHEREAS, on November 2, 1999, the electors of the City of Cocoa overwhelmingly approved an amendment to the City Charter to require that each candidate seeking the office of city council shall have been domiciled within the city and district, if applicable, at least one (1) year immediately prior to the time of qualifying thereby amending the requirements to qualify for such office under Florida law, and to require that city councilmembers maintain such domicile during their term in office; and

WHEREAS, the City Council has previously made legislative findings that a one-year requirement to qualify to run for a city council position is relatively common and has found favor in the courts as a "reasonable residency requirement." For example, in Nichols v. State, 177 So. 2d 467 (Fla. 1965), the Florida Supreme Court held that a one-year durational residency requirement to qualify to run for city commission was not unreasonable and valid. Additionally, in Daves v. City

of Longwood, 423 F.Supp. 503 (M.D. Fla., 1976), the United States District Court, Middle District of Florida, upheld a special act imposing one-year residency requirement to run for city council in the City of Longwood; and

WHEREAS, in furtherance of the will of the voters and the requirements of the City Charter, the City Council desires to amend the City's Election Code to require candidates seeking the office of city council to file a qualifying statement under oath affirming their eligibility and domicile within the City of Cocoa for purposes of implementing the domicile requirement as set forth in Section 1, Article III and Article XVII of the City Charter; and

WHEREAS, the City Council also finds that the City's successful election administration of properly qualifying candidates to run for mayor and city council and maintaining the integrity of City elections is of the utmost importance to democracy and the citizens of Cocoa; and

WHEREAS, the City Council finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of Cocoa.

SECTION 2. Amending Section 2-26 of the City Code. The City of Cocoa Code of Ordinances, Section 2-26 is hereby amended as set forth below (underlined type indicates additions and ~~strikeout~~ type indicates deletions)

Sec. 2-26. - Qualifying fees established; qualifying assessment established; qualifying statement of candidates required.

(a) An assessment of seventy-five dollars (\$75.00) for each candidate for mayor-councilman and sixty dollars (\$60.00) for each candidate for councilman shall be paid by such candidate at the time of qualifying as provided in section 2-25; the same to be paid into the general fund of the city.

(b) Each candidate shall also pay, at the time of qualifying as provided in section 2-25, an additional election assessment. This additional election assessment shall be an amount equal to the annual salary of the office sought. Within thirty (30) days after the close of qualifying, the qualifying officer shall forward all assessments collected pursuant to this section to the Department of State for deposit in the Elections Commission Trust Fund.

(c) Candidates for the offices of the mayor and city council shall meet the eligibility

requirements required by the City Charter and applicable law. Candidates shall qualify with the city clerk by completing and filing qualifying papers designating the office for which they are a candidate. Such qualifying papers shall include all forms required by the Florida Election Code and a qualifying statement on a form approved by the City Council. The form approved by the City Council shall require the candidate to attest to satisfying the candidate eligibility requirements and if elected, maintaining councilmember eligibility requirements during their term of office as required by the City Charter. The form approved by the City Council shall be deemed fully incorporated into this subsection as if explicitly stated herein.

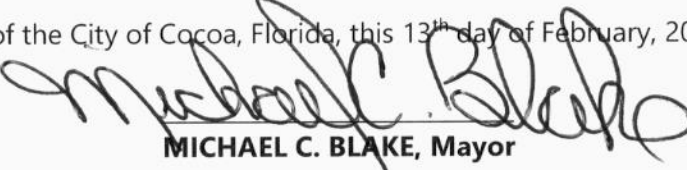
SECTION 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

SECTION 5. Incorporation Into Code. This Ordinance shall be incorporated into the Cocoa City Code and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida, and pursuant to the City Charter.

ADOPTED by the City Council of the City of Cocoa, Florida, this 13th day of February, 2024.


MICHAEL C. BLAKE, Mayor

ATTEST:


Monica Arsenault, City Clerk

First Reading: 01/09/2024

Advertisement: 01/19/2024

Second Reading: 02/13/2024

