

**CITY OF SAN ANTONIO
CITY CLERK'S OFFICE
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Leticia M. Vacek, City Clerk, TMRC, CMC

SUBJECT: Ordinance Establishing Filing Procedures for Candidates for City Council and Repealing Ordinance No. 96789, passed on November 21, 2002

DATE: November 18, 2004

SUMMARY AND RECOMMENDATIONS

The 2005 Regular Municipal Election will be conducted on Saturday, May 7, 2005 for the purpose of electing a Mayor and City Council members. Early voting will begin on Wednesday, April 20, 2005 and will end on Tuesday, May 3, 2005. This proposed ordinance amends the previous ordinance establishing candidate filing procedures.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

The City Council on Thursday, November 21, 2002 approved Ordinance No. 96789 which amended established filing procedures for City Council candidates. This ordinance reflects the newly adopted filing periods established in the 78th Legislative Session. Applications for a place on the ballot must now be filed not later than 5 p.m. on the 62nd before the election (Monday, March 7, 2005). An application may not be filed earlier than the 30th day before the date of the filing deadline (Monday, February 7, 2005). Additionally, this ordinance provides for the City Clerk to prepare and sell candidate packets at an administrative cost of \$10.00 each. The packets contain all the necessary forms for candidate filing and will assist in maintaining uniformity in the application, operation and interpretation of election reporting requirements.

The City Council on Thursday, September 19, 2004 approved ordinance No. 99608 establishing voting precincts to be utilized for the May 7, 2005 Municipal Election.

POLICY ANALYSIS

This is consistent with current office policy whereby the City Clerk's Office and the City Attorney's Office amend candidate filing procedures prior to each City Council election to reflect recently passed election legislation.

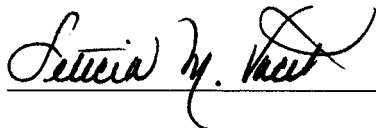
FINANCIAL IMPACT

It is anticipated that \$3,000.00 will be collected through the sale of candidate packets and filing fees. The amount of money generated through the sale of candidate packets and filing fees is less than in previous years. This is as a result of low voter turnout in the May 2003 general election. Subsequently, fewer petition signatures are required to be submitted with the application for a place on the ballot. As a result, it is more likely that candidates for the City Council term 2005-2007 will submit petitions in lieu of the \$100.00 filing fee.

Funds for the election are provided under the Municipal Elections budget. This election is estimated to cost \$660,000.00. However, once the contract with Bexar County is finalized, costs will be adjusted accordingly.

COORDINATION

The proposed ordinance has been coordinated with the City Attorney's Office, Office of Budget and Management, Planning Department and Information Technology Services Department.

A handwritten signature in cursive script, reading "Leticia M. Vacek", is written over a horizontal line.

Leticia M. Vacek, City Clerk, TMRC, CMC

AN ORDINANCE

**ESTABLISHING THE FILING PROCEDURES FOR
CANDIDATES FOR THE CITY OF SAN ANTONIO CITY
COUNCIL AND REPEALING ORDINANCE NO. 96789,
PASSED ON NOVEMBER 21, 2002.**

* * * * *

WHEREAS, Section 4 of the City of San Antonio City Charter (hereinafter referred to as "the Charter") provides that each member of the City Council shall be a citizen of Texas, a qualified elector of the City and registered to vote in the City, shall have resided in the City at least one year prior to filing his or her application for election, and must reside in the City during his or her term of office; and

WHEREAS, Section 4 of the Charter further provides that members of the City Council for Place 1 through 10 shall be elected from such districts to be numbered accordingly and each such member shall be elected by a majority vote of the qualified electors voting in said election in the particular district, and further provides that each member from a district shall reside within its boundaries at least six months prior to filing his or her application for election and continuing during his or her term of office, and failure to do so shall render such office vacant; and

WHEREAS, Sections 4 and 9 of the Charter provide that the person elected to the last place on the Council (Place 11) shall serve as and be the Mayor during his or her term of office, may reside anywhere in the City, and shall be elected by a majority of all qualified electors voting in said City election; and

WHEREAS, Section 19 of the Charter and the Texas Election Code (Section 143.004) require that any qualified person who desires to become a candidate for an office or member of the Council shall file with the City Clerk a sworn application for a designated place on the ballot; and

WHEREAS, the Charter requires that candidates filing for office must pay a filing fee of \$100.00 or, in lieu thereof, a petition with the number of signatures required by Section 143.005 of the Texas Election Code; and

WHEREAS, the Texas Election Code (Sections 146.051 through 146.053) requires that any qualified person who desires to run as a write-in candidate for office in a general municipal election shall file with the City Clerk a declaration of write-in candidacy; and

WHEREAS, Title 15 of the Texas Election Code entitled "Regulating Political Funds and Campaigns" requires keeping of records and filing of Campaign Contribution and Expenditure Reports by candidates for a municipal office with the City Clerk; and

WHEREAS, it is appropriate that the rules and regulations for filing be established to assure orderly conduct to the election and that candidates have a full understanding of the filing procedures and deadlines; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. In accordance with Sections 4 and 9 of the City of San Antonio City Charter, at elections held for members of City Council, there shall be eleven (11) offices designated on the ballot as follows:

Member of Council, Place 1
Member of Council, Place 2
Member of Council, Place 3
Member of Council, Place 4
Member of Council, Place 5
Member of Council, Place 6
Member of Council, Place 7
Member of Council, Place 8
Member of Council, Place 9
Member of Council, Place 10
Member of Council, Place 11 (Mayor)

SECTION 2. As provided in Section 143.007 of the Texas Election Code, an application for a place on the ballot must be filed not later than 5:00 PM of the 62nd day before election day, but not earlier than the 30th day before the date of the filing deadline. The application for candidates for City Council shall be in the form attached hereto and marked as **Attachment I** and must be accompanied by a filing fee of \$100.00 or, in lieu thereof, a petition with the requisite number of signatures.

SECTION 3. As provided in Section 146.054 of the Texas Election Code, a declaration of write-in candidacy must be filed not later than 5:00 PM of the fifth (5th) day after the regular filing deadline. The declaration for write-in candidacy for City Council shall be in the form attached hereto and marked as **Attachment II**.

SECTION 4. The Office of the City Clerk shall receive the applications from candidates and the declarations of write-in candidacy during regular office hours, Monday through Friday between the hours of 7:45 AM, and 4:30 PM (except on the date of the filing deadline, which will then be 5:00 PM). An application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

SECTION 5. The payment of the \$100.00 filing fee, required by Section 19 of the City of San Antonio City Charter, shall be for a designated place on the ballot, shall be deposited in *Awaiting Information from Finance*, and shall only be refundable in accordance with the Texas Election Code, Section 141.038, as follows:

(a) A filing fee paid in connection with a candidate's application for a place on the ballot shall be refunded to the candidate or to candidate's estate, as appropriate, if before the date of the election for which the application is made:

- (1) the candidate dies;
- (2) the candidate is declared ineligible; or
- (3) the candidate's application for a place on the ballot is determined not to comply with the requirements as to form, content and procedure that it must satisfy for the candidate's name to be placed on the ballot.

(b) A claim for a refund of a filing fee must be presented to the authority with whom the candidate's application for a place on the ballot is filed.

(c) A filing fee may not be refunded except as provided by this section.

SECTION 6. The petition, in lieu of the filing fee, for a place on the City general election ballot shall be in the form attached hereto and marked as **Attachment III**. As provided in Section 143.005 of the Texas Election Code, the minimum number of signatures that must appear on the petition is the greater of 25 or one half of one percent of the total vote received in the territory from which the office is elected by all candidates for mayor in the most recent mayoral general election. The petition filed with the application shall be for a designated single place on the ballot and may not be withdrawn. A signature may be withdrawn from a petition as provided by Section 141.067 of the Texas Election Code.

SECTION 7. A filed candidate may withdraw his or her candidacy by filing a written, signed and acknowledged withdrawal request with the City Clerk, in accordance with the Texas Election Code, Sections 145.091 through 145.097. A candidate in an election for which the filing deadline for an application for a place on the ballot is not later than 5:00 PM of the 62nd day before election day may not withdraw from the election after 5:00 PM of the 53rd day before election day. A candidate in a run-off election following a main election may not withdraw from the election after 5:00 PM of the third day after the date of the main election.

SECTION 8. A write-in candidate may withdraw his or her candidacy by filing a written, signed, and acknowledged withdrawal request with the City Clerk, not later than the 46th day before election day, in accordance with the Texas Election Code, Section 146.0301.

SECTION 9. Candidates for Mayor and City Council are required to comply with the requirements of Title 15 of the Texas Election Code entitled "Regulating Political Funds and Campaigns" and Chapter 2, Article VII of the City Code, entitled "Campaign Finance Regulations." In order to obtain and maintain uniformity in the application, operation, and interpretation of the election reporting requirements of candidates, the official Campaign Contribution and Expenditure Report for City elections shall be the form issued by the Texas Ethics Commission. Upon implementation of the electronic campaign finance filing system, candidates for Mayor or City Council will file and update electronic reports with the City Clerk's Office.

SECTION 10. A Candidate's packet is available for sale in the Office of the City Clerk. The administrative cost for the packet is \$10.00. Funds received from the sale of the packets will be deposited in *Awaiting Information from Finance*.

SECTION 11. In the event any candidate for any place on the ballot fails to receive a majority of all votes cast for such a place, a run-off election will be held on May __, 2005, at which election the two candidates receiving the highest number of votes for any such place in the first election shall be voted for again. (Section 2.025, Texas Election Code).

SECTION 12. Ordinance No. 96789 passed on November 21, 2002, is hereby repealed.

SECTION 13. This ordinance shall take effect on the 10th day after passage hereof.

PASSED AND APPROVED this the 18th day of November, 2004.

M A Y O R

ATTEST: _____

City Clerk

APPROVED AS TO FORM: _____

City Attorney