

## **GENERAL INFORMATION**

### **BECOMING A CANDIDATE IN THE CITY OF OCALA**

#### **A. WHO CAN BE A CANDIDATE?**

To become a candidate for the office of City Council or Mayor, you must:

1. Be a registered voter in the City of Ocala.
2. Be a resident of the City of Ocala for not less than one year prior to election to office.
3. City Council candidates must also be a resident within the district for which they seek election.

#### **ADDITIONAL REQUIREMENTS:**

1. F.S. 99.012(3) requires you to resign from your current office if your term does not end on or before the term begins for the office for which you are running. The resignation is irrevocable.
2. F.S. 99.021 provides for the candidate oath in which you state, if you are a partisan candidate that:
  - a. You are not a registered member of any other political party.
  - b. You have not been a candidate for nomination for any other political party for a period of 6 months preceding the general election for which you wish to qualify.
3. F.S. 106.1405 states that a candidate or spouse MAY NOT use campaign funds on deposit to defray normal living expenses other than expenses actually incurred for transportation, meals, and lodging, during travel in the course of a campaign.

#### **B. WHAT IS A CANDIDATE?**

A candidate, as defined in F.S. 97.021(6), is any person who:

1. Seeks to qualify for nomination or election by means of the petitioning process.
2. Seeks to qualify for election as a write-in candidate.
3. Receives contributions or makes expenditures or gives his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination or election to, or retention in, public office.
4. Appoints a campaign treasurer and designates a primary depository.
5. Files qualification papers and subscribes to a candidate's oath as required by law.

#### **C. WHEN MAY I ANNOUNCE MY CANDIDACY?**

You may "announce" your candidacy at any time.

1. However, FS 106.021 provides that **BEFORE** you accept contributions or make any expenditure, **YOU MUST FILE YOUR APPOINTMENT OF CAMPAIGN TREASURER AND DESIGNATION OF CAMPAIGN DEPOSITORY (FORM DS-DE 9)** with your qualifying officer (City Clerk). Any person who seeks to qualify for election or nomination to any office by means of the petitioning process shall appoint a treasurer and designate

a primary depository on or before the date he or she obtains the petitions. This form shows:

- a. Your name, address and telephone number.
  - b. Your political party, if you are a partisan candidate.
  - c. Office sought, including district and group number.
  - d. Name, address and phone number of your campaign treasurer.
  - e. Signature of campaign treasurer, showing acceptance of appointment.
  - f. Name and address of your depository (bank).
2. F.S. 106.023 requires that, within 10 days of filing the Appointment of Campaign Treasurer and Designation of Campaign Depository, you file a Statement of Candidate (**Form DS-DE 84**) with your qualifying officer, stating you have read and understood Chapter 106.

#### **D. HOW DO I RUN FOR A DIFFERENT OFFICE IF I CHANGE MY MIND AFTER BECOMING A CANDIDATE?**

F.S. 106.021(1)(a) provides that:

1. You file a new Appointment of Campaign Treasurer and Designation of Campaign Depository, designating the new office.
2. You notify all your contributors (use form **DS-DE 86**) within 15 days of this change, offering to return their contribution pro rata if they return the request form to you within 30 days.
3. Any contribution not requested to be returned after 30 days may be used by you for your newly designated office.

## CAMPAIGN ACCOUNT

### A. WHEN DO I APPOINT A CAMPAIGN TREASURER AND NAME A DEPOSITORY?

1. F.S. 106.021 requires you to file your Appointment of Campaign Treasurer and Designation of Campaign Depository (**Form DS – DE 9**) with the qualifying officer (City Clerk) **BEFORE** any contributions are accepted or any expenditures are made.
  - a. Your campaign treasurer does not have to be a registered voter in the State of Florida and must accept the position in writing by signing the appointment form. Your campaign treasurer may serve as treasurer for more than one candidate or political committee. You may serve as your own campaign treasurer.
  - b. Your campaign depository may be any bank, savings and loan association, or credit union authorized to transact business in the State of Florida.
    1. Your primary depository is where all contributions are deposited and from which all expenditures are disbursed.
    2. Your treasurer may deposit any funds not currently needed for disbursement of expenditures in a separate interest-bearing account in any bank, savings and loan association, or credit union authorized to transact business in the State of Florida. The account must be designated “(Name of Candidate) *Separate Interest-Bearing Campaign Account*”.
    3. Your treasurer may use any funds not currently needed for disbursement of expenditures for the purchase of a *Certificate of Deposit*.
    4. All campaign accounts and/or Certificates of Deposit must be separate from any personal or other account.
  - c. Funds transferred from a primary account to a separate interest-bearing account are reported as expenditure for the primary account and a contribution to the separate interest-bearing account.
    1. Funds (principal and/or interest) transferred from a separate interest-bearing account to a primary account are reported as an expenditure for the separate interest-bearing account and a contribution to the primary account.
    2. Funds transferred from a Certificate of Deposit to a primary account are reported as expenditure for the Certificate of Deposit and a contribution to the primary account.

## B. CONTRIBUTIONS

### 1. What is a contribution?

F.S. 106.011(5) defines a contribution as:

- a. A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in-kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication.
- b. A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.
- c. The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.
- d. The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

### Not Contributions:

Services provided without compensation by individuals volunteering time on behalf of a candidate or political committee.

Editorial endorsements.

### 2. How soon after receipt must contributions be deposited in my campaign account?

F.S. 106.05 requires that all contributions be deposited into the campaign account by the treasurer **prior to the end of the 5th business day following receipt**. The time frame excludes Saturdays, Sundays and legal holidays.

### 3. Is there a limit to the amount a person may contribute to my campaign?

F.S. 106.08 states that each contributor may give your campaign no more than \$1,000 for each election in which you are opposed. This includes in-kind contributions and the purchase of tickets to fund-raisers.

***Be mindful of the \$1,000 contribution limit per election.***

***Example:*** If *Ima Sue Porter* gives you a \$1,000 contribution and a week later you are **having** a \$20 a plate Spaghetti Dinner as a Fund Raiser, Ima **can not** buy a ticket because it would take her over the contribution limit for this election period.

4. What is an in-kind contribution?

F.S. 106.011(5)(a) and F.S. 106.055 define an in-kind contribution as something which a person has and wants to give or lend a candidate for a campaign. The same limits as money contributions apply, and if someone gives you money and in-kind contributions, the combined total cannot exceed the limit. The fair market value of each in-kind contribution must be reported on the campaign treasurer's report. All in-kind contributions must be approved by candidate and so stated.

**Example:** Someone with office space offers to let you use it for your campaign. They determine the fair market value – amount of rental for the space – which you report as an in-kind contribution, subject to contribution limits. Someone has lumber in his garage and wants to give it to you to use for signs. He determines the fair market value of the lumber which you report as an in-kind contribution, subject to contribution limits.

5. Does this limit apply to what I contribute to my campaign?

**There is no limit to the amount you may contribute to your campaign. Any money contributed by the candidate is reported as a contribution.**

6. What do I do with anonymous contributions?

F.S. 106.07(4)(a) requires that you show the source of each contribution. In an opinion (DE 89-02), the Division of Elections recommends that the contribution be reported on your treasurer's report as an anonymous contribution, and that you send a cover letter explaining that the contribution is anonymous and impossible to return. A copy of this letter will be sent to the Division of Elections for the Florida Elections Commission file. The Division of Elections further recommends that candidates not spend the contribution, and at the end of the campaign donate the amount to an appropriate entity under F.S. 106.141.

7. May I accept cash contributions?

F.S. 106.09 allows cash contributions and contributions made by a cashier's check, **\*provided** each contribution **does not** exceed \$50.

\* Candidates follow this same rule for making CASH contributions to themselves.

8. What is the last day I may receive contributions?

a. F.S. 106.08(3)(a) and a recent DOE opinion establishes that midnight of the Thursday preceding each election as the deadline for receiving contributions. ***It is important that you have a sufficient amount of funds deposited by deadlines as it is illegal to add any money after a deadline.*** Any contribution received after that date and time may not be deposited and must be returned to the donor by your campaign treasurer. These contributions are reported on Form **DS-DE 2.**

- b. Any contributions received **after** you are elected, defeated, become unopposed, or withdraw your candidacy **may not be deposited and must be returned**. These contributions may be reported on Form **DS-DE 2**.

## C. EXPENDITURES

**A CANDIDATE MUST PAY ALL CAMPAIGN EXPENDITURES BY A CHECK DRAWN ON THEIR CAMPAIGN ACCOUNT.**

### 1. What is an expenditure?

F.S. 106.011(10)(a) defines an expenditure as a purchase, payment, distribution, loan, advance, transfer of funds between a primary depository and a separate interest-bearing account, certificates of deposit, or a gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication.

### 2. Requirements for making expenditures (sections 106.11, 106.12 and 106.14,F.S.)

A candidate **must** pay all campaign expenditures by a check drawn on his campaign account. A candidate may not make unlimited personal expenditures and report them as reimbursements. Likewise, a candidate may not make unlimited personal expenditures, donate purchased items to his/her campaign and then report them as in-kind contributions. To do so, frustrates the purpose of the campaign finance law, which is the full disclosure of campaign expenditures.

### 3. Is there a limit on the total amount I may spend on my campaign?

No, you are limited only by the amount of funds you receive.

### 4. What are the guidelines for petty cash?

F.S. 106.12 provides guidelines for petty cash. A record of expenditures is kept, and although you are not required to report each individual petty cash expenditure, **complete petty cash expenditures must be kept**.

- a. From the day a candidate appoints his or her campaign treasurer until the last day a candidate can qualify for office the campaign treasurer may withdraw \$500 per calendar quarter from the campaign account for the petty cash fund.
- b. After qualifying is over and until the election in which the candidate is eliminated or elected to office or the time at which the candidate becomes unopposed, the treasurer may withdraw \$100 per week.
- c. Spend petty cash in amounts of less than \$100.00, and only for office supplies, transportation expenses and other necessities.
- d. Only the total amount withdrawn (PCW) and the total amount spent (PCS) for the reporting period is listed on the campaign report expenditure page (**DS-DE 14**); individual amounts are not listed.

e. Petty cash shall not be used to purchase time, space, or services from “communications media” as defined in F.S. 106.011(13).

5. May a candidate make unlimited personal expenditures or donate purchased items as in-kind to the campaign account?

A candidate may not make unlimited personal expenditures and report them as reimbursements. Likewise, a candidate may not make unlimited personal expenditures, donate purchased items to his/her campaign and then report them as in-kind contributions. To do so, frustrates the purpose of the campaign finance law, which is the **full disclosure** of campaign expenditures.

**6. MAY A CANDIDATE FOR LOCAL OFFICE USE CREDIT CARD FOR EXPENDITURES?**

Credit cards may only be used by candidates for state-wide office or any political committee created to support or oppose any candidate for state-wide office or issue.

**DEBIT CARDS:**

Pursuant to F.S. 106.11(2)(a) a candidate may use a debit card that would be considered a bank check as long as:

1. It is obtained from the same bank that has been designated as the candidate’s or political committee’s primary campaign depository.
2. It is issued in the name of the treasurer, deputy treasurer, or other authorized user and states “Campaign Account of \_\_\_\_\_.”
3. No more than 3 cards are requested and issued.
4. Before a debit card is used a list of all persons authorized to use the card is filed with the division.
5. All cards issued to a campaign expire no later than midnight of the last day of the month of the General Election.
6. The person using the card does not receive cash as part of, or independent of and transaction for goods or services.
7. All receipts for debit card transactions contain the last 4 digits of the debit card number, the exact amount of the expenditure, the name of the payee, the signature of the campaign treasurer, deputy treasurer, or authorized user, and the exact purpose for which the expenditure is authorized.

**D. POLITICAL ADVERTISEMENT REQUIREMENTS – 106.143 F.S.**

A political advertisement is a paid expression in any communications media, whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which shall support or oppose any candidate, elected public official, or issue.

The exceptions are:

1. A statement by an organization, in existence prior to the time during which a candidate qualifies, in support of or in opposition to a candidate, in that organization's newsletter, which newsletter is distributed only to the members of that organization
2. Editorial endorsement by any newspaper, radio or television station, or other recognized news medium.

Any political advertisement that is paid for by a candidate and that is published, displayed, or circulated prior to, or on the day of, any election *must prominently state*: "**Political advertisement paid for and approved by (name of candidate), (party affiliation), for (office sought)."**

Any other political advertisement published, displayed, or circulated prior to, or on the day of, any election must prominently:

1. Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."
2. State the name and address of the persons sponsoring the advertisement.

3. a.

(I) State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement; or

(II) State who provided or paid for the advertisement and cost of production, if different from the source of sponsorship.

b. This subparagraph does not apply if the source of the sponsorship is patently clear from the content or format of the political advertisement.

## **E. SOLICITATION AT THE POLLS AND POLITICAL SIGNS**

Pursuant to F.S. 102.031(4), (effective January 1, 2006) – "No person, political committee, committee of continuous existence, or other group or organization may solicit voters inside the polling place or within 100 feet of the entrance to any polling place, or polling room where the polling place is also a polling room, or early voting site. Before the opening of the polling place or early voting site, the clerk or supervisor shall designate the no-solicitation zone and mark the boundaries. **No photography** is allowed in the polling place. There are **NO EXCEPTIONS** to this rule.

The term "solicit" shall include but not be limited to, seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll; seeking or attempting to seek a signature or any petition; and selling or attempting to sell any item.

The Supervisor of Elections or the clerk is authorized to take any reasonable action to ensure order at the polling place or early voting area, which includes having disruptive persons

removed by law enforcement officers from either the polling room or from the no-solicitation zone.

### **Usage and Removal of Political Campaign Advertisements 106.1435 F.S.**

Each candidate, whether for a federal, state, county or district office, shall make a good faith effort to remove all of his or her political campaign advertisements within 30 days after:

- 1) Withdrawal of his or her candidacy;
- 2) Having been eliminated as a candidate; or
- 3) Being elected to office.

### **F. HOW MAY I USE THE LEFTOVER FUNDS IN MY CAMPAIGN ACCOUNT?**

F.S. 106.141 explains what you may do with funds left in your account after you withdraw, are elected, defeated, or become unopposed:

1. You have 90 days to dispose of the funds in your campaign account and file a final report showing what was done with the remaining funds. During this time, no contributions may be accepted. If you receive a refund check after disposing all funds, you may endorse the check and dispose of it under this section and file an amended report showing the contribution and expenditure.
2. You have 7 days to transfer any funds in a separate interest-bearing account or certificate of deposit to the primary campaign account for disposal.
3. If you filed an oath stating you were unable to pay the election assessment without imposing an undue burden, you are **required to reimburse the qualifying officer for the election assessment fee, which will be forwarded to the Department of State.**
4. You may be reimbursed by your campaign account, in full or in part, during this 90 day period for any contributions you made to your campaign.
5. F.S. 106.11(4) allows you, after you are elected, defeated, withdraw or become unopposed, to:
  - a. Purchase "thank you" advertising in the communications media for up to 75 days.
  - b. Pay for items which were obligated, to include loans.
  - c. Pay for expenditures necessary to close your campaign office and prepare final campaign reports.
  - d. F.S. 106.141(4)(a) and (5) state that any funds not spent or obligated may be:
    1. Returned pro rata to each contributor funds that have not been spent or obligated.
    2. Donated to a charitable organization meeting the qualifications of Section 501(c)(3) of the Internal Revenue Code:
    3. Given to your political party, not more than \$10,000 of the funds
    4. Given to the General Revenue Fund of the county: or

5. Transferred to an Office Account (up to \$2,500 multiplied by the number of years in the term of office to which you were elected: except Judicial, which is a maximum of \$1,500): reports are filed with the Supervisor of Elections each quarter until the account is closed.
6. Any personal property (i.e. – calculators, cell phones, computers, etc.) purchased by the campaign becomes the property of the individual after the election. (There is no longer a campaign or a candidate the day after the election.)

## CANDIDATE QUALIFYING

### A. WILL I GET MY QUALIFYING FEE BACK IF I DECIDE NOT TO RUN?

F.S. 99.092(1) provides that your qualifying fee will be returned **only** if you withdraw your candidacy before **qualifying** ends.

## **CAMPAIGN TREASURER**

### **A. DUTIES OF A CAMPAIGN TREASURER** {F.S. 106.05, 106.06, 106.07}

1. Deposit all contributions into the campaign account by the end of the 5th business day after receipt (excludes Saturdays, Sundays and legal holidays).
2. Pay all expenditures by check, drawn on the campaign account.
3. Keep detailed accounts, records, bills and receipts of all transactions; retain the records for the term of office of position sought.
4. Prepare campaign reports; have signatures of candidate and treasurer.
5. File reports with the City Clerk on or **before** the due date to avoid a fine for late filing.

### **B. CHANGING TREASURERS** {F.S. 106.021(2)}

1. Your treasurer may resign by submitting a written notice to you, with a copy filed with the City Clerk
2. You may remove your treasurer by written notice to the treasurer with a copy filed with the City Clerk. A treasurer is not deemed removed until the copy is received by the Clerk.
3. You must immediately appoint a successor, by filing the Appointment of Campaign Treasurer and Designation of Campaign depository (**DS-DE 9**) with the City Clerk.

### **C. SUGGESTIONS FOR TREASURERS**

1. Keep a schedule of the dates Campaign Treasurers' Reports are due; be sure what period each report covers.
2. Keep a copy of each report filed for your own records.
3. Log each contribution when received; date, name and address, occupation (if more than \$100), and the amount. Keep contributions separate by category: monetary, in-kind and loans.
4. Log each expenditure as they occur: date, name and address, purpose and the amount.
5. Keep a ledger of all petty cash expenditures. Individual listings are not reported on your treasurers report, only the total amount withdrawn, and the total amount spent during the reporting period.
6. Monitor cash flow. Know how much money is available to avoid authorizing expenditures when money is not available.
7. Keep a list of all savings account and Certificate of Deposit funds.

**D. CAMPAIGN REPORTS - FILING DEADLINE** {F.S. 106.07(2)(a)}

**PLEASE NOTE:**

It is acceptable, in fact advisable that you not wait until the last minute to turn in a report. An unforeseen incident could cause you to miss the midnight deadline. You would then be fined.

Remember - **THE SOONER, THE BETTER!**

1. Reports are to be transmitted to the Marion County Election Center **NO LATER THAN** midnight of the day designated.

**E. PENALTY FOR LATE FILING** {F.S. 106.07(8)(a)}

1. Any candidate who does not file a report on the designated due date shall be subject to a fine. The candidate shall be notified immediately.
2. The fine shall be \$50.00 per day for the first 3 days late and, thereafter, ***\$500 per day; not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. HOWEVER, for the reports immediately preceding the primary and general election, the fine shall be \$500.00 per day for each late day, not to exceed 25 percent of the total receipts or expenditures. (The fine MUST be paid from the candidates PERSONAL FUNDS - NOT campaign funds.)*** The fine for late Termination Reports is \$50.00 per each late day not to exceed 25% of the total receipts or expenditures which ever is greater for the period covered by the late report.
3. Within 20 days after receipt of notice of late fee, you may:
  - a. Pay the fine from personal funds (not the campaign account) to the Supervisor of Elections.

**OR**

  - b. Appeal the fine to the Florida Elections Commission, and notify the Supervisor of Elections of your intent in

**F. WAIVER OF REPORT** {F.S. 106.07(7)}

1. In any reporting period when there has been no activity in the account, you may file a Waiver of Report form (**DS-DE 87**) instead of the regular Campaign Treasurer's Report. However, the next report filed must specify that the report covers the entire period between the last submitted report and the report being filed.
2. The deadline for filing a waiver is the same as for filing a campaign report and is subject to the same penalty for late filing.

**G. INCOMPLETE REPORTS** {106.07(2)(b)}

1. All reports are time stamped and accepted on a conditional basis.

2. If a report is incomplete or incorrect, the treasurer will be notified by telephone (if possible) or by registered mail and will be given seven days to file an addendum to complete the report.
3. Failure to file the required information after such notice shall constitute a violation of Chapter 106 and a complaint will be filed with the Florida Elections Commission.