

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

October 12, 2018

Mr. Sherman R. Carouthers
Mayor, City of Okolona
Post Office Box 111
Okolona, Mississippi 38860

Re: Special Charter provision

Dear Mr. Carouthers:

Attorney General Jim Hood has received your request for an opinion and has assigned it to me for research and response.

Issues Presented

You inquire as to whether the city clerk is required to be a resident of the city of Okolona. Specifically, you provide the following:

Section 8 of the City of Okolona seems to address the residence requirement for all elected and some appointed officers. Section 8 of the City of Okolona's charter states, "Be it further enacted, that any qualified Elector of said City, shall be eligible to the offices of Mayor, Marshal, Councilman, Clerk, Treasurer, Assessor and Tax Collector; and that any practicing attorney and physician of good moral and professional standing, shall be eligible to the offices of the City Attorney and City Physician, respectively; and that any person of capacity, and possessing the necessary professional qualifications shall be eligible to the office of City Engineer, whether resident or nonresident."

I have been asked by many residents and nonresidents, does Section 8 of the City of Okolona charter require the City Clerk to be a resident of the City of Okolona? I am asking for an official opinion to the foretated question. I am enclosing a copy of page 7, Section 8 of the charter for the City of Okolona.

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Response

According to our records, your municipality operates under a special charter. Questions concerning the workings of a special charter municipality should be answered by reference to the provisions of that charter.¹ As you reference, Section 8 of the municipality's special charter specifically provides, in pertinent part, "[t]hat any qualified Elector of said City, shall be eligible to the offices of Mayor, Marshal, Councilman, Clerk, Treasurer, Assessor and Tax Collector..." The subject special charter fails to provide a definition for the term "qualified elector." Section 1-3-65 of the Mississippi Code Annotated provides that "[a]ll words and phrases contained in the statutes are used according to their common and ordinary acceptation and meaning; but technical words and phrases according to their technical meaning." According to Black's Law Dictionary, Fifth Edition, the term "qualified elector" is defined as "[a] person who is legally qualified to vote. See also Qualified voter." The term "qualified voter" is defined as "[a] legal voter. A person qualified to vote generally; i.e. one who meets the residency, age, and registration requirements." Black's Law Dictionary, Fifth Edition. Compare Section 23-15-11 ("...inhabitant..., who has resided...for thirty (30) days in the incorporated municipality in which he or she seeks to vote, and who has been duly registered as an elector under Section 23-15-33,...shall be a qualified elector in and for the ...municipality and voting precinct of his or her residence..."). In light of the common and ordinary meanings of the terms "qualified elector" and "qualified voter", we are of the opinion that the city clerk of the City of Okolona is required to be a resident of the municipality.

If we may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:


Leigh Triche Janous
Special Assistant Attorney General

¹ Provisions of a special charter that are contrary to general statutory provisions are viewed by this office as exceptions to the general law, except where the general statutes expressly provide otherwise. MS AG Op., Wallace (August 17, 2001); MS AG Op., Tisdale (February 4, 2000); MS AG Op., Wallace (August 20, 1999).