

# City of Hesperia STAFF REPORT



**DATE:** May 19, 2026  
**TO:** Mayor and Council Members  
**FROM:** Pam K. Lee, City Attorney  
**SUBJECT:** Discussion on Residency Requirements for Candidates Running for City Council

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## RECOMMENDED ACTION

It is recommended that the City Council receive and file this report, which provides background and factual information regarding residency requirements for candidates running for City Council.

## BACKGROUND

At the City Council meeting on April 21, 2026, Council Member Gregg requested that an item be agendaized regarding a discussion item related to residency requirements for candidates running for City Council.

Under Government Code Sections 34882 and 36502, and Hesperia Municipal Code Section 1.09.020(B), a candidate for City Council must be a resident and registered voter of one of the five districts within the City, as of the date on which he or she obtains nomination papers for election. Generally, the term “residency” means a legal residence or domicile that is a physical presence (as opposed to a mailbox or post office box) where the person makes such presence or place a permanent home. (See Elec. Code §§ 349(b) & 2021(b); Gov. Code § 244(a).)

Although there is no specific durational residency requirement (e.g., 6 months, 1 year, etc.) in order to run for City Council, California law and State courts have consistently held that a city cannot mandate a durational residency requirement of more than 30 days for candidates running for City Council.

## ISSUES/ANALYSIS

The California Supreme Court has, in several instances, interpreted state law to hold that durational residency requirements exceeding 30 days violate equal protection guarantees under the US Constitution, and that this limitation applies to candidacy for local elected offices including city council positions. (See, e.g., *Johnson v. Hamilton* (1975) 15 Cal.3d 461.) For example, California courts have struck down a 1-year residency requirement and a 2-year residency requirement because it denied non-qualifying potential candidates for city council equal protection. (*Smith v. Evans* (1974) 42 Cal.App.3d 154; *Thompson v. Mellon* (1973) 9 Cal.3d 96.)

The Hesperia Municipal Code does not currently require a durational residency requirement. If it so chooses, the City Council may amend the Code to include a 30-day durational residency requirement for candidates running for City Council at the time nomination papers are pulled, but any longer than 30 days would be unconstitutional.

In connection with this 30-day requirement, the City Council may require that a candidate intending to run for City Council, as well as currently-serving members of the City Council, furnish to the City various documents to verify their residency in the City and the district where they are running (possibly once per year, for example). Proof may include the following: driver's license or state ID; voter registration; utility bills; property tax documents; lease or rental agreement; in addition to a sworn declaration from the candidate attesting to residency. If it does not already, the City should publish a clear, non-exhaustive list of acceptable documents and allow reasonable alternatives to accommodate varied living situations. These verification measures likely support the City's legitimate interest in ensuring candidate eligibility without imposing additional durational residency requirements.

### **CITY GOAL SUPPORTED BY THIS ITEM**

**Organizational Health** – Foster a high performing organization and improve accountability and transparency

### **FISCAL IMPACT**

No fiscal impact.

### **ALTERNATIVE(S)**

1. Provide alternative direction to staff.

### **ATTACHMENT(S)**

None