

**MAY 2015 EDITION**  
**MUNICIPAL ELECTION**  
**MANUAL**

Prepared by



# TABLE OF CONTENTS

<b>FOREWORD</b> .....	<b>1</b>
<b>INTRODUCTION</b> .....	<b>2</b>
SCOPE OF MANUAL .....	2
CONSTITUTIONAL AND STATUTORY AUTHORITY GOVERNING MUNICIPAL ELECTIONS .....	2
APPLICATION OF STATE ELECTION LAWS TO CHARTER CITIES .....	2
ELECTION CONSOLIDATION .....	3
FILLING COUNCIL VACANCY .....	3
ELECTION PROCEDURE OPTIONS .....	4
Election of Councilmembers .....	4
The District System .....	4
Four-Year Overlapping Terms .....	4
Direct Election of Mayor .....	4
Elections Without Political Parties and Election at Primary .....	4
<b>CHAPTER I - VOTERS</b> .....	<b>6</b>
<b>QUALIFICATIONS</b> .....	<b>6</b>
Residence - Military Personnel .....	7
Special Purpose Elections .....	7
Disqualifications .....	7
<b>REGISTRATION</b> .....	<b>7</b>
County Registration List .....	7
Confidential Voter Registration Information and Misuse of Precinct Registers .....	8
Irregularities .....	8
<b>VOTER RIGHTS</b> .....	<b>10</b>
Voting Rights Act .....	10

<b>CHAPTER II - CANDIDATES</b> .....	<b>11</b>
QUALIFICATIONS .....	11
Members of the Legislature .....	12
Federal Civilian Employees .....	12
State and County Officers and Employees .....	12
Incumbents .....	12
Summation .....	13
WRITE-IN CANDIDATES .....	13
NOMINATION BY PETITION .....	14
Nomination Paper .....	14
Statement on Campaign Finance Law .....	14
Candidate Affidavits .....	15
Nomination Petitions .....	15
FILLING VACANCY AFTER PRIMARY .....	18
CAMPAIGN EXPENSES .....	18
Registration of Political Committees .....	18
Standing Political Committee .....	19
Exploratory Committee .....	19
Exemption for Religious Assembly or Institution .....	20
Campaign Finance Reports .....	20
Additional Reporting by Candidate Committees for Large Single Contributions .....	21
Special Rules for \$500 Threshold Committees .....	21
Termination of Political Committees .....	22
Campaign Contributions Limits .....	23
False Reports and Failure to File Statements; Notice by Clerk .....	23
Campaign Literature Sponsors .....	24
Committees or Agents .....	25
Website Posting .....	25
FINANCIAL DISCLOSURE LAW .....	25

**Fillable Forms and Documents Referenced in this Chapter**

- Candidate Packet
- Candidate Checklist
- Nonpartisan Nomination Paper
- Nomination Paper for Write-in Candidate
- Nonpartisan Nomination Petition
- Financial Disclosure Statement
- Political Committee Statement of Organization
- Campaign Finance Report Covers
- Campaign Finance Report Handbook of Instructions
- Campaign Finance Report Forms
- Special Notice of \$1000 Contribution
- \$500 Threshold Exemption Statement
- Political Committee No Activity Statement
- Political Committee Termination Statement
- Annual No Activity Statement
- Notification of Delinquency to File
- Campaign Contribution Limits

<b>CHAPTER III - ELECTION PROCEDURES</b> .....	<b>27</b>
<b>PREPARATORY STEPS</b> .....	<b>27</b>
Call and/or Notice of Election .....	27
Political Signs .....	27
Polling Places .....	28
Candidate's Nomination Forms .....	29
Registration Lists .....	29
Chain of Custody Records .....	30
Inactive Voter Lists .....	30
Election Boards and Tally Boards .....	31
Financial Statement .....	32
Ballots .....	32
Early Voting and Disabled or Hospitalized Voters .....	32
Paper Ballots .....	36
Rotation of Names .....	36
Optical Scan Balloting .....	36
Electronic Voting Systems .....	37
Supplies .....	37
Electioneering: 75-Foot Limit .....	38
Kids Voting .....	39
Liquor Establishments - Election Days .....	39
Penal Provisions .....	39
Ballot Boxes and Ballots .....	40
Final Preparations .....	40
<b>ELECTION DAY</b> .....	<b>40</b>
Opening of Polls .....	40
Notice to Voters .....	43
Instructions to Voters .....	43
Notice of Right to Vote a "Provisional Ballot" .....	44
Provisional Ballot Counting Notification .....	44
Challenging of Voters .....	44
Challenging Early Ballots .....	44
Poll List .....	45
Closing of Polls - Notice .....	45
Counting of Ballots .....	45
<b>COUNT AND TALLY OF EARLY BALLOTS</b> .....	<b>46</b>
<b>WRITE-IN VOTES</b> .....	<b>46</b>
Abstract of Votes .....	46
Election Results - Majority of Votes .....	47
<b>AFTER THE ELECTION</b> .....	<b>48</b>
Retention of Materials .....	48
Canvass of Vote .....	48
Candidates Receiving Equal Number of Votes .....	48
Letter Declaring Nomination or Certificates of Election .....	48
Assuming Office .....	49
Payment of Election Officials .....	49
Recount of Votes .....	49
Contest of Elections .....	49

**Fillable Forms and Documents Referenced in this Chapter**

- [Election Calendars](#)
- [Call of Election](#)
- [Notice of Election](#)
- [Notice of Election - sample resolution](#)
- [Election Financial Statement](#)
- [75 Foot Limit](#)
- [Challenge List](#)
- [Resolution to Canvass Vote](#)
- [Certificate of Election](#)

<b>CHAPTER IV - SPECIAL PURPOSE ELECTIONS</b> .....	<b>51</b>
Election Consolidation .....	51
INITIATIVE AND REFERENDUM ELECTIONS .....	52
INITIATIVE ACTIONS .....	52
Actions Upon Filing Initiative Petition .....	53
REFERENDA ACTIONS .....	53
Referendum for Charter Amendments .....	53
Referendum by Petition .....	53
Actions Upon Submitting Referendum Petition .....	54
INITIATIVE AND REFERENDUM PETITIONS .....	54
PETITION SIGNATURE FRAUD .....	58
CAMPAIGN EXPENSES .....	59
Campaign Finance Reporting .....	60
PUBLICITY PAMPHLET .....	61
INITIATIVE AND REFERENDUM BALLOTS .....	61
CHALLENGE OF INITIATIVE OR REFERENDUM MEASURES .....	62
RECALL ELECTIONS .....	62
BOND ELECTIONS .....	65
General Obligation Bonds .....	65
Revenue Bonds (Public Utility Purposes) .....	66
Street and Highway Improvement Bonds .....	69
FRANCHISE ELECTIONS .....	70
DIRECT ELECTION OF MAYOR .....	70
FOUR YEAR STAGGERED COUNCIL TERMS .....	71
CONSOLIDATION OF TOWNS ELECTION .....	71
TOWN TO CITY ELECTION .....	72
CHARTER ELECTIONS .....	72
Charter Adoption Procedures .....	72
Charter Amendment Election .....	73
SPENDING LIMIT ELECTIONS .....	74
Home Rule Option (The Alternative Expenditure Limitation) .....	75
Permanent Adjustment of Expenditure Base Limitation .....	76
Emergency and One-Time Overrides .....	78
CAPITAL PROJECTS ACCUMULATION FUND - ELECTION .....	79
PRIMARY PROPERTY TAX LEVY ESTABLISHED - ELECTION .....	80
SALES TAX ADVISORY ELECTION .....	80
GENERAL PLAN ADOPTION ELECTION .....	81

**Fillable Forms and Documents Referenced in this Chapter**

- [Initiative and Referendum Packet](#)
- [Application for Initiative or Referendum Petition Serial Number](#)
- [Initiative Petition](#)
- [Referendum Petition](#)
- [Recall Packet](#)
- [Recall Petition](#)
- [Nomination Petition for Recall Election](#)
- [Application for Recall Petition Serial Number](#)
- [Receipt for Recall Petitions](#)
- [Initiative, Referendum & Recall Laws](#)
- [Sample Ordinance and Ballot Language for Direct Election of Mayor](#)

<b>ELECTION CALENDARS AND REFERENCE MATERIALS</b> .....	82-85
Election Calendars .....	83
Guidelines on Compliance with Voting Rights Act .....	84
<b>ELECTION PACKETS</b> .....	86-88
Candidate .....	86
Initiative and Referendum .....	87
Recall .....	88
<b>ELECTION WORDS, PHRASES AND TERMINOLOGY</b> .....	89-100
Words and Phrases List .....	89
Common Municipal Election Terminology .....	91

# FOREWORD

We are pleased to present to you this electronic version of the **Municipal Election Manual** designed to make it easier to access municipal election information, related "fillable" and ready to print election forms and the Arizona Revised Statutes and court decisions online as they relate to the text. \*Please note that this document is essentially the same as the previous edition of the Municipal Election Manual, but includes updates according to new election laws, incorporates numerous technical changes, provides helpful links from the table of contents directly to chapters, sub-headings and election forms as well as links to the A.R.S., Attorney General and General Counsel opinions, and court decisions online. All you need to use this document is Adobe Reader (which is free to the user) and Internet access if you would like to view the A.R.S., Attorney General and General Counsel opinions, and court decisions online.

The first edition of the Municipal Election Manual was researched and written by League of Arizona Cities and Towns staff in 1966. This was due in part to the fact that state elections laws were not written with local government elections in mind and therefore could not be directly applied to the municipal elections process. This manual has been designed to be a helpful tool as you implement your municipal election process, and should never act as a substitute for the local counsel, guidance or opinion of your city or town attorney.

This manual is organized by subject and begins with the first step in the elections process and includes such information as:

- Voter qualifications, registration and rights
- Candidate qualifications and nominating procedures
- Elections procedures
- Special elections

We hope that the information contained in this document will be a useful reference for municipal officials, especially those responsible for conducting and administering municipal elections. Each year, we will send you a new, updated Municipal Election Manual. We will continue to improve this manual in the years to come and look forward to hearing your comments, suggestions or criticisms.

Ken Strobeck  
Executive Director

\*If you are using this manual for the first time please read the [\*Instructions for Use\*](#).

# INTRODUCTION

## SCOPE OF MANUAL

This manual has been prepared to provide guidance to clerks in conducting municipal elections and to better acquaint these officials with their duties and responsibilities. The contents of this manual are devoted to a discussion of the following items:

1. Voter qualifications, registration and rights.
2. Candidate qualifications, campaign expenses and committees and nomination procedures.
3. A full discussion of election procedures including necessary preparatory steps, activities on election day and post-election requirements.
4. Elections other than regular municipal elections. This section includes election procedures for holding initiative and referendum, recall, bond, alternative spending limit and four year overlapping council term elections as well as procedures for other elections that are not regular elections.

In addition, the reference materials contain a calendar of the election process and information on complying with the Voting Rights Act of 1965.

**It should be recognized that this text does not represent a substitution for the counsel, guidance or opinion of the city or town attorney, who should be consulted for an interpretation of the laws as applied to any given set of facts.**

## CONSTITUTIONAL AND STATUTORY AUTHORITY GOVERNING MUNICIPAL ELECTIONS

Constitutional authority for State and local elections may be found generally in the Arizona State Constitution, Article VII, governing suffrage and elections, and Article XIII, pertaining to municipal corporations. The statutory authority for municipal elections is contained in the Arizona Revised Statutes, Title 9, Chapter 7, Article 3, which pertains to general law cities and towns, and the entirety of Title 16, which governs all elections in this State. Both the Constitution and the revised statutes have been interpreted by the Arizona Supreme Court, and these cases will be cited throughout the text of this manual.

## APPLICATION OF STATE ELECTION LAWS TO CHARTER CITIES

Historically, state election laws did not apply to charter cities in this State. In 1951, the State Supreme Court held that municipal elections were of local interest and not matters of Statewide concern.<sup>1</sup> However, a 1997 Court of Appeals decision upheld a law passed during the 1996 legislative session enacting consolidated election dates. The Court determined that consolidated dates were a matter of statewide concern and applied to municipal governments.<sup>2</sup> In 2012, the State Supreme Court reverted to the reasoning in their earlier decisions finding that the Legislature could not preempt the system of electing the council in Tucson as specified in their charter.<sup>3</sup> In 2014, Division II of the Arizona Court of Appeals ruled unconstitutional the 2012 law mandating that all city/town candidate regular elections be held at the same time as state elections as applied to charter cities and an appeal by the State to the Supreme Court was denied.<sup>4</sup> In the absence of constitutional or lawful restrictions, a charter city has full power to act within the limitations imposed by the Constitution.<sup>5</sup>

---

<sup>1</sup> Strode v. Sullivan, 72 Ariz. 360, 236 P2d 48.

<sup>2</sup> City of Tucson v. State, 191 Ariz. 436, 957 P2d 341.

<sup>3</sup> City of Tucson v. State, 229 Ariz. 172, 273 P.3d 624.

<sup>4</sup> City of Tucson and City of Phoenix v. State of Arizona, 235 Ariz. 434, 333 P.3d 761.

<sup>5</sup> Maxwell v. Fleming, 64 Ariz. 125, 166 P2d 831.

Most charter cities have adopted in whole or in part the general election laws of the State as a portion of their charter provisions. Others have enacted unique local provisions covering both how and when local officials will be elected. For these reasons, some of the information in this Election Manual may not be applicable to charter cities.

## ELECTION CONSOLIDATION

### Regular Candidate Elections

In accordance with A.R.S. § 16-204, regular candidate elections in general law cities and towns must be held on the election consolidation dates in the fall of even numbered years. The application of this requirement to charter cities is being litigated. Those dates are:

- the tenth Tuesday before the first Tuesday after the first Monday in November
- the first Tuesday after the first Monday in November

### All Other Elections

All other city or town elections except for any charter adoption or amendment elections must be held on the following dates:<sup>1</sup>

- the second Tuesday in March
- the third Tuesday in May
- the tenth Tuesday before the first Tuesday after the first Monday in November
- the first Tuesday after the first Monday in November

Recall elections and other types of special elections may be held on any of the dates. Charter adoption or amendment elections were excluded from the consolidated election requirement due to the time frames specified in the Constitution; these elections can be held at any time.

The election consolidation law requires consolidation of dates only; it does not require consolidation of election administration. However, since other jurisdictions within the city or town and the state and county will be holding elections on the same dates, the city or town should explore consolidation of administration to make the election process as convenient as possible for voters.

## FILLING COUNCIL VACANCY

If a vacancy occurs on your city or town council and the incumbent has more than two years remaining on his or her term, you are required to put the remainder of the term on your next council election ballot. This only applies if you have four year terms and does not affect charter cities. The law provides that if a vacancy occurs more than thirty days before nomination petitions are due for your regular election, then the vacancy is filled by election for the remainder of the unexpired term. A separate nomination petition must be prepared for a two year term in addition to the regular petitions for the four year terms. To distinguish the petitions, the clerk should print two-year term on the top of the petition for those wishing to fill the vacancy. On the ballot, there must be a separate section for the two year term listing those candidates who filed the two year term nomination petitions.<sup>2</sup>

---

<sup>1</sup> A.R.S. § 16-204.

<sup>2</sup> A.R.S. § 9-235 and League General Counsel Memo on law.

## ELECTION PROCEDURE OPTIONS

### Election of Councilmembers

Under the Arizona Revised Statutes, cities and towns elect members of the council for two-year terms. Each councilmember is elected at large. The common council of towns with a population of less than 1,500 must consist of five members. The common council of cities and towns with a population in excess of 1,500 usually consists of seven members.<sup>1</sup> A city or town council may, with voter approval, provide for four-year overlapping terms. Both cities and towns have the option of adopting a district system with the mayor elected at large.

### The District System

Several Arizona cities and towns have adopted an optional form of municipal governmental organization - the district system.<sup>2</sup> Instead of electing councilmembers at large, members of the council (aldermen) are elected from districts within the city or town. The common council of a city or town may provide for a district system by passing a resolution or ordinance to place before the voters the question of a district system. If approved by the voters, the council then divides the city or town into districts. All districts must have nearly equal population, and no general law city or town may have more than six districts. Under the district system of elections, a qualified elector may vote for only one councilmember (alderman) to represent their district; however, all qualified electors vote for the mayor. In brief, each councilmember (alderman) is elected by a separate district in the city or town, but the mayor is elected at large from all the districts. It should be noted that this option automatically provides for direct election of the mayor, rather than having the official chosen by the council; however, the mayor still serves as a member of the council.

### Four-Year Overlapping Terms

The common council, with a majority vote of the qualified electors of the city or town voting at the election, may provide overlapping four-year terms for councilmembers. The initial division of the council elected after approval of four-year terms is determined by lot. Councilmembers are then elected every two years on an alternating basis. For example, at one regular election there may be three council vacancies; and two years later, there will be four vacancies to fill at the regular election. Each councilmember holds office for a four-year term. Unless directly elected, the mayor is elected from among the council membership and serves in that capacity for a two-year term.<sup>3</sup>

### Direct Election of Mayor

General law cities and towns have the option of directly electing their mayor. Under A.R.S. § 9-232.03 for towns and A.R.S. § 9-272.01 for cities the mayor may be directly elected if such an option is first approved by the voters of the city or town. At the election, the term of the mayor is designated as two years or four years.

### Elections Without Political Parties and Election At Primary

Cities and towns may provide for the election of candidates at the primary election using two optional procedures set forth in A.R.S. § 9-821.01. Using the first option cities and towns may, BY ORDINANCE, provide for the election of candidates at the primary election. Upon passage of such an ordinance, a candidate is deemed elected at the primary if he receives A MAJORITY, MORE THAN ONE-HALF, OF THE VOTES CAST for that office.

There is a new method for determining whether a candidate has received a majority of the votes cast for general law cities and towns. This new method was enacted to address the impact of consolidated elections. The new method calls for adding the total number of votes cast for all candidates for an office; dividing that sum by the number of seats to be filled at the election and then dividing the result of that calculation by two and rounding the number to the highest whole number. If you have a directly elected mayor, you will calculate the office of mayor separately from the office of councilmember to determine who wins at the primary. If you have district elections, you will do the calculation for each district separately. If more candidates receive a majority than there are offices to be filled, the candidates receiving the highest number of votes equal to the number of seats to be filled shall be declared elected.<sup>4</sup>

The second optional procedure provided in A.R.S. § 9-821.01 may only be used by towns with a population of less than 5,000. Using this option, some of the council may be elected at the primary by a plurality of the votes cast.

---

<sup>1</sup> A.R.S. § 9-231 (B).

<sup>2</sup> A.R.S. § 9-273 and § 9-232.04

<sup>3</sup> A.R.S. § 9-272, A.R.S. § 9-232.02.

<sup>4</sup> Chapter 105 of the Laws of 2015.

Before such an option may be implemented, the citizens of the town must vote to approve such an election procedure. In addition, this option does not become effective unless at least 3/5 of the seats open on the council are filled by persons receiving a majority of the votes cast.<sup>1</sup> The remaining seats on the council may then be filled by persons elected by less than a majority, that is a plurality, at the primary election. By using these optional procedures, a city or town may eliminate the expense of a general election. In using these options, candidates are declared elected to office effective the date of the general election.<sup>2</sup>

If there are offices which are not filled at the primary, a general election must be held to fill such offices. These optional election procedures will be considered, then, as a primary election for nominating candidates for the ensuing general election. Candidates are selected for inclusion on the general election ballot in order of the vote total they received at the primary; however, their names are rotated on the ballot in accordance with the privileges and immunities provision of the State Constitution.<sup>3</sup> If the number of candidates is equal to or less than the number to be elected, rotation of names is not required and the names should be placed in alphabetical order. For mail ballot elections where there are two or more precincts, candidate name rotation is required unless rotation is found to be impracticable in which case the name order is to be drawn by lot at a public meeting.<sup>4</sup> Rotation may not be possible in a consolidated election. We suggest following the procedure used by your county to determine the order of names on the ballot in a consolidated election. No more than twice the number of candidates for which there are vacancies on the council may be placed on the general election ballot. For example, if there were seven vacancies and no candidate in the primary received more than one-half of all the votes cast, then a maximum of fourteen candidates' names could appear on the ballot in the general election. Those fourteen candidates receiving the highest number of votes at the primary would have their names placed on the general election ballot.

In the event one of the fourteen candidates dies, is disqualified, is ineligible or withdraws before the general election, the candidate receiving the next highest number of votes is not entitled to have his or her name placed on the general election ballot pursuant to a Supreme Court Case.<sup>5</sup> In no instance would any remaining candidate be declared elected to office without running in the general election. In other words, if there is only one seat to be filled and one remaining candidate for that office, the general election still must be held.

A number of questions have been asked as to whether ballots must be reprinted when a candidate withdraws from the election after the ballots have been printed. If this situation occurs, the city or town does not have to reprint the ballots.

In the following chapters, the basic procedural requirements for the holding of municipal elections are detailed. Although it has been our intent to include all necessary substantive material, it is important to remember that your city or town attorney should be consulted prior to the holding of any election.

---

<sup>1</sup> A.R.S. § 9-821.01 (G).

<sup>2</sup> A.R.S. § 9-821.01.

<sup>3</sup> Ariz. Const., Art. II, Sec. 13. See also Kautenburger v. Jackson, 85 Ariz. 128, 333 P2d 293, wherein the State Supreme Court made applicable to voting machines the rotation of names provision.

<sup>4</sup> A.R.S. § 16-464.

<sup>5</sup> Tellez v. Superior Court, 104 Ariz. 169, 450 P2d 106 (1969) and League General Counsel Opinion issued October 19, 1987.

# CHAPTER I

## VOTERS

In this chapter, the legal qualifications for voters are discussed in addition to voter registration and the procedures for obtaining county voter registration lists. A section has also been included on the rights of voters including a brief discussion of the Voting Rights Act of 1965 and its applicability to Arizona.

### QUALIFICATIONS

A qualified elector is deemed to be any person whose name appears on the register for the last preceding general election, or who has registered subsequently, and is otherwise qualified.<sup>1</sup> To register to vote, an individual must possess all of the following qualifications:

1. United States citizenship.
2. Age of eighteen years or more on or before the regular general election next following his registration.
3. State residency for a period of twenty-nine days prior to election.
4. Residency in the city or town for twenty-nine days prior to the election.
5. Ability to write one's own name or make his mark unless prevented by physical disability.<sup>2</sup>

To register, an applicant must have proof of citizenship. This requirement applies if it is their first time registering to vote in Arizona or if the applicant has moved to another county in Arizona. If the applicant has an Arizona driver license or non-operating identification issued after October 1, 1996, the number is inserted on the front of the Arizona Voter Registration form. This will serve as proof of citizenship and no additional documents are needed. If not, the applicant must attach proof of citizenship to the form. Only one acceptable form of proof is needed to register to vote.

The following is a list of acceptable documents to establish citizenship:

- A legible photocopy of a birth certificate that verifies citizenship and supporting legal documentation (e.g. marriage certificate or court documented name change) if the name on the birth certificate is not the same as the applicant's current legal name. The Secretary of State Election Procedures Manual directs the county to accept a birth certificate as proof of citizenship where the name on the certificate is different from the voter registration if the first name, middle name, place of birth, date of birth and parents' name match.
- In the event a United States citizen is born abroad in a non-military installation, they should have registered with the Department of State and obtained a "Certificate of Birth Abroad." This document counts as a birth certificate.
- A legible photocopy of pertinent pages of a United States passport identifying the applicant
- Presentation to the County Recorder of United States naturalization documents or the number of the certificate of naturalization
- The applicant's Bureau of Indian Affairs Card Number, Tribal Treaty Card Number, Tribal Enrollment Number or census number

---

<sup>1</sup> A.R.S. § 9-822, § 16-101, § 16-120, and § 16-121.

<sup>2</sup> A.R.S. § 16-101. See also Ariz. Const., Art. VII, Sec. 2.

- A legible photocopy of a driver license or non-operating identification from another state within the United States if the license indicates that the applicant has provided satisfactory proof of citizenship
- A legible photocopy of a Tribal Certificate of Indian Blood or Tribal or Bureau of Indian Affairs Affidavit of Birth.

If the person is already registered in Arizona and is only moving within the same county, changing their name or political party affiliation, they do not need to provide proof of citizenship.

In addition, the person must be registered to vote at least twenty-nine days before the election (charter cities may by charter require a different registration cut-off). Any person residing for twenty-nine days in an area that has been annexed to the city or town at least thirty days prior to an election, if otherwise qualified as an elector, may also vote in such election. Additionally, a person who meets the registration requirements may not be denied the right to register because he resides in a particular community for the purpose of attending school.<sup>1</sup>

### Residence-Military Personnel

Under the provisions of the State Constitution, voting residence for Federal employees and military personnel is neither gained nor lost by reason of their employment in the service of the United States. Non-resident military personnel stationed within this State do not automatically gain residency by virtue of their military assignment.<sup>2</sup>

### Special Purpose Elections

All qualified electors of the city or town may vote in a special election, including bond elections.<sup>3</sup>

### Disqualifications

In Arizona, a person, by law, may be disqualified from voting for the following reasons:

1. Being under guardianship. Persons under guardianship are those deemed incapable of managing their own affairs and placed by law under the control of another person with respect to their relations to third persons.<sup>4</sup>
2. Having been adjudicated an "Incapacitated Person"; i.e., lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.<sup>5</sup>
3. Having been convicted of a felony or of treason, unless restored to civil rights.<sup>6</sup>

If a person has been adjudicated an "Incapacitated Person" or is convicted of a felony, his name must be stricken from the voter registration list.<sup>7</sup> State law provides that a person continues to be a qualified elector until that person is specifically canceled or the person does not qualify as a resident.<sup>8</sup>

---

<sup>1</sup> A.R.S. § 9-822. See also A.R.S. § 16-593 for rules determining residence.

<sup>2</sup> Ariz. Const., Art. VII, Section. 3 and Section 6.

<sup>3</sup> A.R.S. § 9-523, § 16-120 and City of Phoenix, Ariz. v. Kolodziejki, (1970) 90 S. Ct. 1990, 399 U.S. 204, 26L. Ed. 2d 523.

<sup>4</sup> Porter v. Hall, 34 Ariz. 308, 271 Pac. 411.

<sup>5</sup> A.R.S. § 16-101 (A). For definition, see A.R.S. § 14-5101.

<sup>6</sup> Ariz. Const., Art. VII, Sec. 2. See also A.R.S. § 16-101.

<sup>7</sup> A.R.S. § 16-165.

<sup>8</sup> A.R.S. § 16-121.

## REGISTRATION

The basic requirement for voter registration is found in the State Constitution. It embodies a directive to establish registration and other pertinent laws to secure purity of elections and to guard against abuses of the elective franchise.<sup>1</sup> The voter registration law should be construed so as to uphold the citizen's right to vote.<sup>2</sup> The general election laws of the State of Arizona apply to all cities and towns except those organized under a home rule charter.

### County Registration List

Pursuant to state law, all cities and towns must use county registration lists.<sup>3</sup> According to the applicable statute, A.R.S. § 16-172 (A), the city or town must negotiate a contract at least sixty days in advance of the local election with the county recorder to obtain the county registration list. This contract will stipulate that the county recorder is to be reimbursed for actual expenses in preparing the list.<sup>4</sup> The list obtained from the county is used to determine the qualified electors for city or town elections. As a result, the city or town clerk has no duty to register or determine the qualifications of voters. Any voter on the county registration list, residing within the city or town, is eligible to vote.

With the new consolidation law, if you are contracting with the county to conduct your election, there will be no need to contract for a registration list. The contract will be for the conduct of the election in general, and the county will assess the fee accordingly.

An elector may move from one precinct to another after registration is closed. However, he may not vote in his new precinct because he is deemed to be an elector of the precinct from which he moved. The elector remains registered in his old precinct until the first day registration is reopened.<sup>5</sup> In the case of a change of the elector's surname, it is the duty of the elector to re-register with any qualified official. An elector may correct the record by providing the new name while voting a provisional ballot.<sup>6</sup>

Every qualified elector is required to show proof of identity at the polling place before receiving a regular ballot. The proof can be one form of identity that includes the name, address and a photo, two forms if picture identification is not available or one form of acceptable photo identification with one form of non-photo identification that bears the name and address of the elector. The Secretary of State's "Procedure for Proof of Identification at the Polls" states the following forms of acceptable identification but notes that county election officials may allow other forms of identification so long as the requirements of A.R.S. § 16-579 (A) are met:

#### Acceptable identification with photograph, name and address of the elector (List 1)

- Valid Arizona driver license
- Valid Arizona nonoperating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state or local government issued identification.

An identification is "valid" unless it can be determined on its face that it has expired.

#### Acceptable identification without a photograph that bear the name and address of the elector (two required) (List 2)

- Utility bill of the elector that is dated within 90 days of the date of the election. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone or cable television
- Bank or credit union statement that is dated within ninety days of the date of the election
- Valid Arizona vehicle registration
- Indian census card
- Property tax statement of the elector's residence
- Tribal enrollment card or other form of tribal identification
- Arizona vehicle insurance card
- Recorder's certificate
- Valid United States federal, state or local government issued identification including a voter registration card issued by the County recorder
- Any mailing to the elector that is marked "Official Election Material"

<sup>1</sup> Ariz. Const., Art. VII, Sec. 12.

<sup>2</sup> *Abbey v. Green*, 28 Ariz. 53, 253 Pac. 150.

<sup>3</sup> A.R.S. § 9-823.

<sup>4</sup> A.R.S. § 16-172 (A).

<sup>5</sup> A.R.S. § 16-125.

<sup>6</sup> A.R.S. § 16-137

An identification is "valid" unless it can be determined on its face that it has expired. All items from List 2 may be presented to poll workers in electronic format including on a smart phone or tablet.

**Acceptable forms of identification, one identification with name and photo of the elector accompanied by one non-photo identification with name and address (List 3)**

- Any valid photo identification from List 1 in which the address does not reasonably match the precinct register accompanied by a non-photo identification from List 2 in which the address does reasonably match the precinct register
- U.S. Passport without address and one valid item from List 2
- U.S. Military identification without address and one valid item from List 2

An identification is "valid" unless it can be determined on its face that it has expired.

An elector who cannot provide proof of citizenship is allowed to vote a provisional ballot or a conditional provisional ballot.

**Confidential Voter Registration Information and Misuse of Precinct Registers**

In order to protect registered voters who have an injunction against harassment or an order of protection verified by the court, the county recorder may establish procedures to protect the registrant's residence address, telephone number or voter precinct number from public disclosure. The presiding judge of the superior court may also order the county recorder to seal the voter registration information of certain public officers including judges, commissioners, peace officers, prosecutors, public defenders or any registered voter who resides at the same residence address as a protected person. Furthermore, the law prohibits use of precinct registers and certain information derived from the registration forms from being used for any purpose other than political activity, elections, performance of an authorized government official's duties and news gathering unless specifically authorized by law.<sup>1</sup>

**Irregularities**

Anyone willfully procuring a false registration is guilty of a class 6 felony. A false registration is the procurement of a registration to which one is not entitled as an elector of any county, city, town or precinct. Any person who procures or attempts to procure the registration of another, knowing the registration is false and erroneous, suffers the same penalty as one who would procure the registration for himself. Upon conviction of such charge, the courts will enter an order to cancel the erroneous registration.<sup>2</sup> Frauds and violations of the election law committed by the clerk or deputy registrars, inspectors, judges, election board clerks or justices of the peace are class 6 felonies.<sup>3</sup>

---

<sup>1</sup> A.R.S. § 16-152, § 16-153 and § 16-168

<sup>2</sup> A.R.S. § 16-182.

<sup>3</sup> A.R.S. § 16-183.

## VOTER RIGHTS

The State Constitution provides the voters of this State with three distinct rights. First, all electors are immune from arrest except for treason, felony or breach of the peace, while actually attending an election or going to or from an election. Secondly, no elector of this State is required to perform military duty on election day, except during war or during times of public danger; therefore, no elector need attend a National Guard meeting during peacetime on election day.<sup>1</sup> Also, all electors are guaranteed secrecy in casting their ballots.<sup>2</sup> Furthermore, the statutes provide that no person qualified as an elector in accordance with A.R.S. § 16-101, and who is otherwise qualified to vote in any State, county, city, town or school district election will be denied the right to vote because of race, color, religion, sex, ancestry or national origin.<sup>3</sup> Additionally, employees are allowed absence from their regular employment on election day for the purpose of casting their ballots if they do not have three hours from the opening of the polls until the beginning of the work shift or from the end of the work shift until the closing of the polls. In such case, the employee is only allowed the time needed to provide a three-hour time period from either the opening or closing of the polls and the beginning or end of the work shift.<sup>4</sup>

### Voting Rights Act

The federal Voting Rights Act of 1965, as amended, requires that any changes, enacted by certain covered jurisdictions, affecting voting must be submitted to the Attorney General of the United States for preclearance. In Arizona, all counties, including all cities and towns within those counties, were covered by this law. In 2013, the U.S. Supreme Court ruled that the preclearance requirements are unconstitutional thus removing this requirement.<sup>5</sup>

In 1975, the Voting Rights Act was amended to require that voting materials be made available in the languages of certain minority groups in the United States. In Arizona that includes the Spanish language and depending on your area, Indian languages. All cities and towns in Arizona are affected by these amendments and must comply with the law. The principal provisions of the guidelines concerning minority voting materials as they affect cities and towns are located in the document [Guidelines on Compliance with the Voting Rights Act](#) which appears in this manual.

---

<sup>1</sup> Ariz. Const., Art. VII, Section 4 and Section 5.

<sup>2</sup> Ariz. Const., Art. VII, Sec. 1.

<sup>3</sup> A.R.S. § 41-1421.

<sup>4</sup> A.R.S. § 16-402 (A).

<sup>5</sup> General Counsel Opinion dated July 12, 2013.

# CHAPTER II

## CANDIDATES

[Click here to go to the list of forms related to this Chapter](#)

In this chapter, the requirements for a candidate running for a municipal office are discussed. These include minimal candidate qualifications, the nominating procedure and reporting requirements for campaign expenses. A [candidate packet](#) is included in this manual with the applicable forms.

### QUALIFICATIONS

A candidate for local office must be a qualified elector at the time of filing their nomination paper.<sup>1</sup> Any such candidate, in addition to the other requirements, must be eighteen years of age or over in general law cities and towns. In charter cities, the minimum age is that age specified in the charter. A candidate must be able to speak, write and read the English language.<sup>2</sup>

Candidates for local office must also have resided in the city or town for one year preceding the election.<sup>3</sup> This one-year residency requirement also permits persons living in an area that is annexed to a city or town less than one year prior to the election to qualify as a candidate if they meet all other requirements for candidates. To meet all other requirements, such candidates must still have resided for one year prior to the election in the area which was subsequently annexed. Residency requirements for candidates in charter cities vary from one to three years.<sup>4</sup>

Concerning the question of candidate qualifications, it should be noted that a person convicted of a felony cannot serve as a councilmember until he has been restored his civil rights. As noted in the preceding paragraph, a councilmember must possess all of the qualifications of an elector, in general law cities and towns.<sup>5</sup> The qualifications for an elector, in part, prohibit any person convicted of treason or a felony from being qualified to vote at any election, unless his civil rights are restored. Also, if a person has been adjudicated an "incapacitated person", he is ineligible to vote at any election.<sup>6</sup> Hence, it is clear that no person formerly convicted of a felony can be a candidate for office unless his civil rights are restored, nor can an "incapacitated person" be a candidate as such a person does not possess voter qualifications.<sup>7</sup>

The Supreme Court has determined that being a member of the State Bar does not disqualify a person from serving as a mayor or councilmember.<sup>8</sup> There is a dual candidacy prohibition. A person cannot be a candidate for more than one public office if the elections for those offices are held on the same day and if the person would be prohibited from serving in the offices simultaneously.<sup>9</sup>

---

<sup>1</sup> A.R.S. § 16-311 (B). General Counsel opinion dated October 19, 1993 concluded that this Title 16 requirement of being a qualified elector at the time the candidate files the nomination paper should be followed notwithstanding lesser requirement in A.R.S. § 9-232.

<sup>2</sup> A.R.S. § 38-201. Juan Carlos Escamilla v. Sonia Cuello and Alejandrina Cabrera. 230 Ariz. 202 (Arizona Supreme Court 2012)

<sup>3</sup> A.R.S. § 9-232. State v. Macias. 162 Ariz. 316, 783 P.2d 255.

<sup>4</sup> General Counsel Opinion dated October 31, 1979.

<sup>5</sup> A.R.S. § 9-232.

<sup>6</sup> Ariz. Const., Art. VII, Sec. 2, and A.R.S. § 16-101.

<sup>7</sup> For the method of restoration to civil rights, see Ariz. Const., Art. V, Sec. 5; A.R.S. § 13-905.

<sup>8</sup> Home v. Rothschild. 227 Ariz. 119, 253 P.3d 1242

<sup>9</sup> A.R.S. § 38-296.01

## Members of the Legislature

A member of the State Legislature is prohibited from holding office in a city or town. The only offices a legislator may hold while serving as a member of the Legislature are school trustee, teacher or instructor.<sup>1</sup>

## Federal Civilian Employees

Generally, employees in the Executive Branch of the Federal Government may not take an active part in political management or in political campaigns. However, they may run for local office in nonparty elections; that is, elections in which no candidate for local office is identified on the ballot as representing any political party, including a nonpartisan party. In other words, Federal employees may participate in nonparty local elections in which party designation and nomination are completely absent.<sup>2</sup>

A special regulation of the Civil Service Commission grants a further limited exception to Federal employees living in Sierra Vista and Huachuca City, Arizona. Under this exception, employees in those cities may run for municipal office as independent candidates only, even if other candidates for local office are officially identified with a national or State political party.<sup>3</sup> The basis of this exception is the large percentage of Federal employees residing in these municipalities.

If an employee is elected (or appointed) to a local office, he may serve in the office, provided his agency decides that the holding of local office will not interfere with the proper performance of his Federal duties. Of course, if the local office requires full-time service, the employee must resign his Federal position.

## State and County Officers and Employees

Some persons may be disqualified from being a candidate for a municipal office because they hold another public office or because of their employment.

Employees of the State government, under the jurisdiction of the state personnel system, are prohibited from being nominated for or being elected to any paid office by statute.<sup>4</sup> Officers and employees of the State universities, colleges and public school systems are specifically exempt from the authority of the Arizona State Personnel System and thus would not be prohibited from holding municipal office under this statutory provision.

Additionally, a person who holds another public office may be precluded from holding a municipal office by reason of incompatibility of office. Although there are few specific guidelines, it has been held by an Arizona court that offices are incompatible when the duties are in conflict and when it is a physical impossibility for the same person to perform the duties of both offices.<sup>5</sup>

## Incumbents

The Arizona Constitution (Article XXII, Sec. 18) prohibits an incumbent of a salaried elective office from offering himself for nomination or election to another salaried elective office, except during the final year of the term being served. State law defines the term "offer himself for nomination or election" as the time of filing the nomination paper.<sup>6</sup> An Attorney General's opinion indicated that the statute governing incompatibility of office did not prohibit a person from serving concurrently as a school board member and as a member of a city or town council.<sup>7</sup>

---

<sup>1</sup> Ariz. Const., Art. IV, Part 2, Sec. 5.

<sup>2</sup> Title 5, Code of Federal Regulations, Sec. 733.103.

<sup>3</sup> Title 5, Code of Federal Regulations, Sec. 733.107.

<sup>4</sup> A.R.S. § 41-752. Attorney General Opinion, 71-32-L.

<sup>5</sup> *Perkins v. Manning*, 59 Ariz. 60, 122 P2d 857.

<sup>6</sup> A.R.S. § 38-296. See also General Counsel Opinion dated October 24, 1996.

<sup>7</sup> Attorney General Opinion, 72-20-L.

## Summation

From this discussion, it appears that officers and employees of different political jurisdictions may, under certain conditions, seek municipal office. Federal civilian employees may seek municipal office where the election is nonpartisan, in the sense that there is no political party of any type. Where the majority of voters in the municipality are Federal civilian employees, an exception can be made. In such case, Federal employees may seek office in partisan political elections.<sup>1</sup> State employees covered by Arizona State Personnel System regulations are not eligible for nomination or election to municipal office. Members of the State Legislature are barred from holding office except that of school trustee, teacher or instructor. Finally, an individual holding another public office must be able to properly discharge the duties of his local office as well as the duties of the other office or position.

County personnel regulations may also prohibit a person from holding a municipal office. The regulations of the county should be consulted.

## WRITE-IN CANDIDATES

Write-in candidates are allowed at both the primary and general election subject to the limitations listed below. A.R.S. § 16-312 requires that any person wishing to become a write-in candidate file a nomination paper with the following information:

1. Actual address or description of place of residence and post office address.
2. Length of residence in the State.
3. Age.
4. Date of birth.
5. Signature of candidate.

This [write-in candidate nomination paper](#) must be filed with the city or town clerk by 5:00 p.m., 40 days prior to the election. Write-in candidates are not required to file nomination petitions. However, all other candidate election forms must be filed by write-in candidates.<sup>2</sup>

A person cannot be a write-in candidate at a general election if they ran in the immediately preceding primary election for that office and failed to be nominated. A person also cannot be a write-in candidate in the primary or general election if they file a nomination petition without enough valid signatures to be placed on the ballot for that year's primary.<sup>3</sup>

There is provision in state law for late vacancy write-in candidates. However, the Arizona Court of Appeals, Division I ruled that the provision did not apply to non-partisan elections.<sup>4</sup>

The clerk may not accept the nomination paper of a write-in candidate if the person is liable for an aggregation of \$1000 or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filing of the nomination paper and the liability arose from failure to comply with or enforcement of the state campaign finance laws. There is an exception if the liability for the fines, penalties, late fees or judgments is being appealed.

The city or town clerk must notify the election boards of those persons properly filed as write-in candidates. The election board inspector must post this notice of official write-in candidates in a conspicuous location within the polling place. In addition, the city or town must post on its website the names of write-in candidates and include in early ballot instructions where that information can be found on its website.

---

<sup>1</sup> Title 5, Code of Federal Regulations, Sec. 733.107.

<sup>2</sup> A.R.S. §16-312 (B)

<sup>3</sup> A.R.S. §16-312 (F); Kennedy v. Lodge. 230 Ariz. 548; 288 P.3d 108.

<sup>4</sup> A.R.S. §16-343; Katan v. City of Prescott. 223 Ariz. 179; 221 P.3d 370.

## WRITE-IN VOTES MAY ONLY BE COUNTED FOR THOSE PERSONS WHO HAVE FILED SUCH NOMINATION PAPERS.

Write-in votes cast for anyone not filing the documents noted above will not be counted. State law also requires that a write-in candidate must receive a certain number of votes to be issued a letter of nomination.<sup>1</sup> For nonpartisan elections, we believe that a reasonable interpretation is that a write-in candidate must receive a total number of votes equivalent to at least the number of signatures required for nomination petitions for the same office before such a candidate is issued a letter of nomination.

### **NOMINATION BY PETITION**

In Arizona, persons are nominated to run for office in the primary election by a petition procedure for nomination. The petition process allows any qualified voter the opportunity of seeking public office. The nomination paper is a formal notification to the clerk that the individual intends to seek municipal office. Filing a nomination paper which includes a candidate affidavit, a political committee statement of organization or \$500 threshold exemption statement and a financial disclosure statement while securing the requisite number of signatures on a nomination petition enable a voter to run as a candidate in the primary election.

A person desiring to run for municipal office must file the requisite documents not less than 90 days nor more than 120 days before the primary election date.<sup>2</sup>

#### **Nomination paper**

A [nomination paper](#) is a written notification directed to the city or town clerk of the individual's desire to become a candidate for office. The nomination paper contains the following items:

1. Name of the candidate.
2. Candidate's actual residence or a description of the candidate's place of residence and post office address.
3. The office for which the candidate offers their candidacy.
4. The exact manner in which the candidate desires to have their name printed on the official ballot. This manner is limited to the candidate's surname and given name or names, an abbreviated version of such names or appropriate initials. Also, nicknames are permissible, but in no event may nicknames, abbreviated versions or initials of given names suggest reference to professional, fraternal, religious or military titles. Candidate's abbreviated names or nicknames may be printed within quotation marks. The candidate's surname must be printed first, followed by the given name or names.<sup>3</sup>
5. Date of election.

A candidate must be a qualified elector at the time the candidate files their nomination paper and must reside in the city, town or district the person proposes to represent.<sup>4</sup> All nomination papers must be signed by the candidate and filed with the city or town clerk by 5:00 p.m. on the last day for filing such papers.<sup>5</sup> Any candidate who does not file a timely nomination paper is not eligible to be placed on the ballot.

#### **Statement on Campaign Finance Law**

A statement on campaign finance law is included as part of the nomination paper. This statement indicates that the candidate has read all applicable laws relating to campaign finance and reporting. A compilation of all state statutes relating to campaign finance is included in the Campaign Finance Handbook prepared by the League. This handbook should be provided to all candidates by the city or town clerk as part of the candidate's packet.

---

<sup>1</sup> A.R.S. § 16-645.

<sup>2</sup> A.R.S. § 16-311.

<sup>3</sup> General Counsel Opinion dated June 3, 1968.

<sup>4</sup> A.R.S. § 16-311 (B).

<sup>5</sup> A.R.S. § 16-311 (F).

## Candidate Affidavits

At the time of filing the nomination paper, candidates must also file an affidavit with sufficient information to indicate that the person, at the time of the election, will be qualified to hold the office sought. A candidate affidavit section has been added to the nomination paper so that a candidate can simply fill out one form for the nomination paper, statement on campaign finance law and candidate affidavit.

The [candidate affidavit](#) should indicate that at the time of filing the candidate is:

1. Eighteen years old.
2. A qualified and registered elector, and
3. Will be a resident of the city or town for at least one year at the time of the election, or a resident for at least one year of an area annexed to a city or town less than a year prior to an election.
4. Current on any campaign finance violation fines, penalties or judgments and that complete payment has been made.<sup>1</sup>

The form of the candidate affidavit is prescribed by the Secretary of State.

The clerk is prohibited from accepting a nomination paper from a candidate who owes \$1,000 or more in fines, penalties, late fees or administrative or civil judgments including any interest or costs due to campaign finance violations. This prohibition does not apply if the penalty is under appeal.<sup>2</sup>

## Nomination Petitions

All candidates, with the exception of write-in candidates, must file [nomination petitions](#) at the time of filing the nomination paper. A nomination petition is signed by qualified electors and supports the candidacy for nomination of the individual whose name appears at the top of the nomination petition in the certificate portion. Qualified electors entitled to sign nomination petitions are those who are qualified to vote for the candidate whose nomination petition they are signing and must reside in the electoral district in which the candidate is running.<sup>3</sup>

Sample nomination petition forms must be prepared by the Secretary of State and distributed to all election officers. The current form is included in the candidate packet in this manual. Following the caption "Nonpartisan Nomination Petition" is the body of the petition stating the intent of the petitioners. It must be 11 inches wide and 8 ½ inches long and contain ten lines spaced one-half of an inch apart with sequential numbering from one to ten.<sup>4</sup>

The signature portion of the petition must be divided into columns headed by the titles: signature; printed name; actual address or description of place of residence, city, town or post office box address and date of signing. A photograph of the candidate may appear on the nomination petition. Also, instructions to circulators must appear on the petition as follows:

1. All petitions must be signed by circulators.
2. Circulator is not required to be a resident of this state but otherwise must be qualified to register to vote in this state and, if not a resident of this state, shall register as a circulator with the Secretary of State.<sup>5</sup> (The procedure for registration of out-of-state circulators is to be specified in the Secretary of State's instructions and procedures manual.)
3. Circulator's name must be typed or printed under the circulator's signature.
4. Circulator's residence address or a description of residence location.

---

<sup>1</sup> A.R.S. § 16-311 (D).

<sup>2</sup> A.R.S. § 16-341 (K).

<sup>3</sup> A.R.S. § 16-322.

<sup>4</sup> A.R.S. § 16-314 and 16-315.

<sup>5</sup> A.R.S. § 16-315 (D).

In response to a U.S. Supreme Court decision, State law was changed in 1999 to only require petition circulators to be qualified to register to vote rather than a qualified elector.<sup>1</sup> The League general counsel suggests that municipalities interpret the law in the broadest sense and only require petition circulators for municipal issues to be qualified to register to vote in the State of Arizona rather than qualified to register to vote in a particular city or town. This appears to be most consistent with the intent of the Court decision. If the circulator is not a resident of Arizona, they are required to register with the Secretary of State.

It is necessary to include a certification on each nomination petition, stating that each of the names on the petition was signed in the presence of the circulator on the date indicated and that in the petition circulator's belief, all signers of the nomination petition are qualified electors who reside at the address given.<sup>2</sup> A person may sign a nomination petition for only one candidate for each office unless there is more than one vacancy to be filled at the election. The signer of the nomination petition must possess the qualifications to vote for the candidate.<sup>3</sup>

If an elector signs more nomination petitions than permitted by law, the earlier signatures of the elector are deemed valid as determined by the signature date. If the signatures in question are on the same day and exceed the allowable number then all signatures from that day, and any day after, are invalid.<sup>4</sup> However, as noted later in the manual, it is the duty of the courts and not the municipal clerk to determine the legal sufficiency of nomination petitions.

### Number of Signatures Required

The number of signatures required on a nomination petition is contingent upon the office the candidate is seeking. For city and town elections the percentage figures are based upon the vote cast at the last preceding election computed according to the formulas specified below. An option is now allowed for cities and towns with nonpartisan elections in the calculation of the number of signatures required on nomination petitions. A city or town may by ordinance provide that the minimum number of signatures required for a mayoral or council candidate running at large is one thousand signatures or five percent of the vote in the city, whichever is less, so long as the number is not more than ten percent of the vote in the city. A city with districts or wards may by ordinance provide that the number of signatures for members of the council is two hundred fifty or five percent of the vote in the district whichever is less.<sup>5</sup> The percentage figures and the offices nominated are outlined for both cities and towns.<sup>6</sup>

### NOMINATION PETITIONS IN CITIES

#### Office                      % Signatures Required

Mayor                      At least 5% and not more than 10% of the total vote cast for mayor in the last preceding election at which a mayor was elected. If a mayor is not elected independently, then the percentage required to compute the total number of signatures is at least 5% and not more than 10% of the highest vote for the office of councilmember at the last preceding election at which a councilmember was elected unless an alternative procedure has been adopted by ordinance as provided in A.R.S. § 16-322 (A) (8).

#### Councilmember

At Large                      At least 5% and not more than 10% of the total vote cast for mayor in the last preceding election at which a mayor was elected. If a mayor is not elected independently, then the percentage required to compute the total number of signatures is at least 5% and not more than 10% of the highest vote cast for the office of councilmember at the last preceding election at which a councilmember was elected unless an alternative procedure has been adopted by ordinance as provided in A.R.S. § 16-322 (A) (8).

<sup>1</sup> Buckley v. American Constitutional Law Foundation, Inc., 119 S. Ct. 636 (1999).

<sup>2</sup> A.R.S. § 16-321.

<sup>3</sup> A.R.S. § 16-321 (A & B).

<sup>4</sup> A.R.S. § 16-321 (C).

<sup>5</sup> A.R.S. § 16-322 (A) (8-10).

<sup>6</sup> A.R.S. § 16-322.

By District At least 5% and not more than 10% of the total vote cast for mayor in the district in the last preceding election at which a mayor was elected unless an alternative procedure has been adopted by ordinance as provided in A.R.S. § 16-322 (A) (9).

### NOMINATION PETITIONS IN TOWNS

<u>Office</u>	<u>% Signatures Required</u>
Mayor	At least 5% and not more than 10% of the highest vote cast for an elected official of the town at the last preceding election unless an alternative procedure has been adopted by ordinance as provided in A.R.S. § 16-322 (A) (10).
Councilmember	At least 5% and not more than 10% of the highest vote cast for an elected official of the town at the last preceding election unless an alternative procedure has been adopted by ordinance as provided in A.R.S. § 16-322 (A) (10).

### Clerk's Duty to Verify Nomination Petition

It is the duty of the courts and not the clerk to determine the legal sufficiency of nomination petitions.<sup>1</sup> The clerk need only determine that the nomination petitions are substantially in regular form and contain the requisite number of signatures. The clerk has neither the right nor the duty to determine whether signers of the nominating petitions are qualified electors.

### Appeals of Validity of Nomination Petitions

An elector may file a court action challenging a nomination petition but must do so by 5:00 p.m. of the 10<sup>th</sup> day, excluding Saturdays, Sundays and holidays, after the last day for filing nomination papers and petitions. Any such action must be heard by the Superior Court within ten days after the filing and this decision is only appealable if notice of appeal is filed within five days with the Supreme Court. The appeal can allege that the petitions were not completed properly.<sup>2</sup> All challengers are required to specify in the action the petition number, line number and basis for dispute for each signature in question.<sup>3</sup> The clerk is statutorily named as a party to the action and automatically receives "service of process" in any action challenging a nomination petition. The clerk is the designated agent for the person filing a nomination petition and, therefore, must immediately mail the process and notify the person by telephone of the action.<sup>4</sup> If the clerk is required by the court to do signature verification and the court determines that the challenge was without substantial justification or was primarily for the purpose of delay or harassment or that the candidate who submitted the petitions filed a substantial number of invalid signatures knowingly or recklessly, the court can award reasonable expenses for the signature verification to the city or town.<sup>5</sup>

A candidate may also be challenged on grounds relating to the qualifications for office, as prescribed by law, including age or residency or if the candidate has failed to fully pay fines, penalties or judgments for campaign finance violations.

### Petition Forgery

All petitions that have been submitted by a candidate that is found guilty of petition forgery must be disqualified, and the candidate is not eligible to seek election to a public office for at least five years.<sup>6</sup>

### Withdrawing a Signature from a Signed Nomination Petition

A signature may be withdrawn by the person who signed a nomination petition until 5:00 p.m. on the day the petition is filed.<sup>7</sup>

<sup>1</sup> Sims Printing Co. v. Frohmiller, 47 Ariz. 561, 58 P2d 518; Hunt v. Superior Court in and for Navajo County, 64 Ariz. 325, 170 P2d 293. See also Attorney General Opinion I01-019 and General Counsel Opinion dated April 22, 1998.

<sup>2</sup> Attorney General Opinion I09-011. Jenkins v. Hale, 218 Ariz. 561, 190 P3d 175.

<sup>3</sup> Bohart v. Hanna, 213 Ariz. 480, 143 P3d 1021. See also Attorney General Opinion I07-010.

<sup>4</sup> A.R.S. § 16-351.

<sup>5</sup> A.R.S. § 16-351.01.

<sup>6</sup> A.R.S. § 16-351 (F).

<sup>7</sup> A.R.S. §19-113. See also Powers v. Carpenter, 203 Ariz. 116, 51 P.3d 338.

## FILLING VACANCY AFTER PRIMARY

For cities and towns with nonpartisan elections, there is no procedure for filling a vacancy on the ballot after the primary. If one of the candidates whose name is scheduled to appear on the general election ballot dies, withdraws or is disqualified, no one else's name can be substituted.<sup>1</sup> If the ballot is already printed, it is not necessary to reprint the ballot. A notice similar to the one for qualified write-in candidates should be posted in each polling place indicating the withdrawal of the candidate along with notice that any votes cast for that candidate will be tabulated. Notice of withdrawal shall also be posted at all early voting locations and be made available to early voters by providing with the early ballot instructions a website address at which updates to information regarding write-in and withdrawn candidates is available.<sup>2</sup> It is good practice to require a candidate withdrawing from the election to file a written notice with the clerk indicating the withdrawal.

## CAMPAIGN EXPENSES<sup>3</sup>

State law requires candidates to account for all monies or things of value received and expended by them, their campaign committee, exploratory committee or individuals on behalf of a person's candidacy for public office. There are no statutory limits on the dollar amount any candidate can spend during the campaign. Campaign contributions are, however, limited pursuant to A.R.S. § 16-905 and those limits apply to each election cycle<sup>4</sup> which combines the primary and general.<sup>5</sup>

A federal court decision in December 2014 found that the definition of political committee in the campaign finance law was vague, overbroad and consequently unconstitutional.<sup>6</sup>

Following the court decision, the Legislature changed the definition of political committee to a list of committee types.<sup>7</sup> A new committee type is an association or combination of persons that meets both of the following requirements: is organized, conducted or combined for the primary purpose of influencing the result of any election; and knowingly receives contributions or makes expenditures of more than \$500 in connection with any election during a calendar year. A statement of organization must be filed with the clerk within five business days after meeting the definition of political committee.

### Registration of Political Committees

Candidates who expend or receive contributions of more than \$500 must file a political committee [Statement of Organization](#) before receiving or expending money, circulating petitions or distributing campaign literature. They must use the format prescribed for the form that you distribute.

A candidate who intends to receive contributions or make expenditures of less than \$500 must sign a \$500 Threshold Exemption Statement. As long as a statement has been signed and the candidate does not receive contributions or make expenditures of more than \$500 during the election cycle, the candidate does not need to file a statement of organization or any other campaign finance forms. (See record-keeping requirements later in this chapter.) However, if the candidate later receives or expends more than \$500, a statement of organization must be filed with the clerk within five business days.

---

<sup>1</sup> Katan v. City of Prescott. 223 Ariz. 179, 221 P.3d 370. See also General Counsel Opinions dated October 19, 1987 and May 18, 1993.

<sup>2</sup> A.R.S. § 16-343.

<sup>3</sup> A.R.S. § 16-901 - § 16-925. See also Attorney General Opinion I13-007 and Chapter 241 of the Laws of 2014.

<sup>4</sup> A.R.S. § 16-901 (8).

<sup>5</sup> A.R.S. § 16-903.

<sup>6</sup> Galassini v. Town of Fountain Hills. United States District Court for Arizona. No. CV-11-02097.

<sup>7</sup> A.R.S. § 16-901 (19).

The statement of organization of a political committee must include the following:

1. The name, address and type of committee.
2. The name, address, relationship and type of any sponsoring organization.
3. The names, addresses, telephone numbers, occupations and employers of the chairman and treasurer of the committee. (In the case of a political committee of the candidate alone, the candidate can be both chairman and treasurer).
4. In the case of a candidate's campaign committee, the name, address, office sought and party affiliation of the candidate. Party affiliation is not required for nonpartisan elections.
5. A listing of all banks, safety deposit boxes or other depositories used by the committee. (Before the committee accepts a contribution or makes an expenditure, each committee must designate at least one account at a qualified financial institution. This may be done on the statement of organization or within five business days of opening an account.)
6. A statement that the chairman and treasurer have read all of the applicable laws relating to campaign finance and reporting.

Upon filing a statement of organization, a political committee is issued an identification number by the clerk. Political committees are required to file an amended statement of organization within five days of a change in the information required as outlined above or in the case of a ballot proposition any change in the serial number and whether they support or oppose passage of the ballot measure.<sup>1</sup>

Political committees that file a statement of organization and who are registered in another state or pursuant to federal law, and intend to use in Arizona monies raised before filing its statement of organization, must also file complete copies of its previous campaign finance or similar reports filed in the other jurisdictions that cover all contributions or receipts for the preceding two years.<sup>2</sup>

### **Standing Political Committee**

A political committee can file as a "Standing Political Committee" if the committee has reported to multiple jurisdictions for more than one year and meets various other requirements including registering with the Secretary of State under this designation. This designation allows a committee to centrally file with the Secretary of State's office electronically rather than with every jurisdiction in which they are active. Standing political committees must still file a political committee statement of organization in jurisdictions where active so the local authorities know they are active in their city or town but the clerk does not issue a number. This too is done by the Secretary of State. The committee reports are available to election officers and the general public online.<sup>3</sup>

### **Exploratory Committee**

State law provides for a political committee formed for the purpose of determining whether an individual will become a candidate. An individual is required to designate a political committee as their exploratory committee by filing a statement of organization or a \$500 threshold exemption statement before receipt of contributions or expenditures are made or campaign literature is distributed. If an exemption statement is filed and the individual receives or expends more than \$500, there is a five-day deadline to file a statement of organization with the clerk and the committee must file all the same campaign finance reports as any other political committee. An individual may only have one exploratory committee in existence at a time. After designating an exploratory committee, a candidate may lawfully collect signatures on nomination petitions and receive contributions.<sup>4</sup>

---

<sup>1</sup> A.R.S. § 16-902.01 (A).

<sup>2</sup> A.R.S. § 16-902.02.

<sup>3</sup> A.R.S. § 16-901 (23), § 16-902.01 (E), § 16-907 (D) and § 16-913 (K).

<sup>4</sup> A.R.S. § 16-903 (G).

### Exemption for Religious Assembly or Institution<sup>1</sup>

There is a special exemption from registration as a political committee if a person is a religious assembly or institution that does not spend a substantial amount of time or assets on influencing any federal, state or local legislation, referendum, initiative or constitutional amendment. Note that the exemption does not apply if the group is attempting to influence a candidate election. Substantial amount of time or assets carries the same meaning as specified in Section 501 C (3) of the Internal Revenue Code.

### Campaign Finance Reports

There are a number of reports that must be filed by political committees with the clerk that detail contributions and expenditures.<sup>2</sup> For all campaign finance statements and reports the postmark is the date of filing. In summary, the requirements are:

- A. All committees must file a Statement of Organization or a \$500 Threshold Exemption Statement with the clerk. If after an exemption statement is filed and the candidate (or committee) then receives contributions of more than \$500 or spends more than \$500, the committee has five days after crossing the \$500 threshold to file the statement of organization. A single committee must be formed for the primary and general election.
- B. In any calendar year when there is an election at which any candidates, measures, questions or propositions appear on the ballot, a political committee that has filed a statement of organization must file the following [campaign finance reports](#):
  1. A report covering the period beginning January 1 through May 31, filed no later than June 30.
  2. Pre-election report must be filed no less than four days before any election and must be complete through the twelfth day before the election.
  3. Post-election report must be filed not more than thirty days after any election and must be complete through the twentieth day after the election.
- C. In any other calendar year, a political committee must file a report covering the period beginning twenty-one days after the date of the election in the preceding calendar year through December 31 of the non-election year, filed no later than January 31 of the following calendar year.
- D. If a political committee receives no contributions and makes no expenditures during a period in which it is required to file a campaign finance report, the committee treasurer or if the treasurer is unavailable the candidate may, in lieu of filing a report, sign and file a form indicating no activity during the specific reporting period.
- E. Reports in connection with special, recall or runoff elections must conform to the same filing deadlines set forth above.
- F. Each report to be filed, as listed above, must be signed by the committee treasurer or the candidate if the treasurer is unavailable.

The information required for each campaign finance report can be found in detail under A.R.S. § 16-915 (A). (See also the [Campaign Finance Report Handbook of Instructions](#)). In summary, the information required includes:

1. The amount of cash on hand at the beginning of the reporting period.

---

<sup>1</sup> A.R.S. § 16-922.

<sup>2</sup> A.R.S. § 16-913

2. For the reporting period and the election, the total amount of all receipts and an itemized list of all receipts in the following categories, together with the total of all receipts in each category:
  - Contributions from individuals.
  - Contributions from political committees.
  - For a candidate's campaign committee, the candidate's contribution or promise of personal monies, including loans guaranteed by the candidate.
  - All other loans.
  - Rebates, refunds and other offsets to operating expenditures.
  - Dividends, interest and other forms of receipts.
  - The value of in-kind contributions.
3. The identification of each individual who makes a contribution exceeding fifty dollars during the period covered by the report together with the date and amount of the contribution. Contributions of fifty dollars or less may be aggregated. In addition, the following must be identified: political committee that makes a contribution during the period covered by the report together with the date and amount of the contribution; a person who makes a loan during the period covered by the report, together with the identification of any endorser or guarantor of the loan and the amount endorsed or guaranteed by each, and the date and amount of the loan; a person who provides any rebate, refund or other offset to operating expenditures during the period covered by the report together with the date and amount of the receipt and a person who provides a dividend, interest or other receipt during the period covered by the report together with the date and amount of the receipt. If contributions are received through a payroll deduction plan, alternative reporting is allowed.
4. For the reporting period and the election, the total amount of all disbursements and an itemized list and total of certain disbursements in categories listed in A.R.S. § 16-915 (A) (4).
5. The name and address of each recipient of an expenditure made during the reporting period covered by the report together with the date, amount of the expenditure and a clear description of the items or services purchased. If the disbursement is to a political committee, the report must include the identification number issued to that political committee.
6. An itemized account of the campaign debts and extensions of credit owed by the candidate or political committee, still outstanding, including the name and address of the obligee or creditor, the amount owed, whether the amount is certain or estimated and on what basis and the purpose of the obligation. An obligation that is itemized on a campaign finance report shall be listed on all subsequent finance reports until extinguished.
7. The total sum of all receipts, together with the total receipts less offsets, and the total sum of all disbursements, together with the total disbursements less offsets, for both the reporting period and the election.

### **Additional Reporting by Candidate Committees for Large Single Contributions<sup>1</sup>**

In addition to regular campaign finance reports, a candidate or a candidate's campaign committee is required to give [notice to the city/town clerk](#) if the candidate or committee receives from a single source a contribution of at least \$1000 less than twenty days before the day of the election. The notice must be filed within 72 hours after receipt of the contribution and include the date of receipt, the name of the contributor and the amount of the contribution. These contributions also are required to be included in the next regular report. The date of receipt of a contribution is the date the candidate's campaign committee obtains possession of the contribution. There are penalties for violation. A candidate's campaign committee that knowingly violates this notice requirement and a person who knowingly violates it are liable in a civil action for a civil penalty of up to three times the amount improperly reported.

### **Special Rules for \$500 Threshold Committees**

For candidates or campaign committees that file a \$500 threshold exemption statement, the committee and the treasurer are required to maintain a record of all contributions received and expenditures made by the committee.<sup>2</sup> This information need not be filed except in the case of a committee that exceeds the \$500 threshold. In that case, the committee must file a statement of organization and comply with the reporting requirements specified for non-\$500 threshold candidates or committees.

---

<sup>1</sup> A.R.S. § 16-913.01.

<sup>2</sup> A.R.S. § 16-904.

Candidates or committees that complete the election as a \$500 threshold candidate or committee are required to file a termination statement and dispose of any surplus monies under the same rules that apply to other committees. Failure to file a termination statement means that the \$500 threshold committee is automatically terminated 90 days after the end of the election cycle and is required to pay a civil penalty of \$100.

### Termination of Political Committees

A political committee may terminate after addressing any surplus or debts and obligations. Exploratory committees and candidate campaign committees with debts and obligations may terminate if the debts are transferred to the individual's subsequent exploratory committee or the candidate's subsequent campaign committee. Under any other conditions and for all other committees, a political committee may terminate only when the committee chairman and treasurer file a written statement with the clerk certifying that it will no longer receive any contributions or make any disbursements; that the committee has no outstanding debts or obligations and that any surplus monies were disbursed including the name and address of each recipient and the date and amount of each disposition.<sup>1</sup> We suggest that when a clerk becomes aware that a committee no longer has any outstanding debts or obligation, a Termination Statement should be sent to the treasurer encouraging termination of the committee. If a committee terminates its activities in a jurisdiction but remains active in others a statement must be attached, signed by the treasurer and chairman, stating committee monies will only be used in active jurisdictions. There are special procedures for termination of \$500 threshold committees as specified above.

A political committee must dispose of surplus monies as follows:

1. Retain surplus monies for use in a subsequent election, which includes a transfer by an individual's exploratory committee or a candidate's campaign committee to that individual's subsequent exploratory committee or that candidate's campaign committee designated for a subsequent election.
2. Return surplus monies to the contributor to the extent records are available permitting such return.
3. Contribute surplus monies to a state, county or local committee of a political party.
4. Donate the surplus monies to a charitable organization that qualifies under Section 501 (c) (3) of the United States Internal Revenue Code.
5. In the case of a political committee other than an individual's exploratory committee or a candidate's committee, contribute surplus monies to a candidate's campaign committee if the contribution is within the contribution limits set by law.
6. Donate surplus monies to a political committee other than an individual's exploratory committee or to a candidate's campaign committee.<sup>2</sup>
7. Dispose of the surplus funds in any lawful manner. The use of surplus monies for the personal use of a candidate or any person related to the candidate by blood or marriage is prohibited.<sup>3</sup>

An individual's exploratory committee or a candidate's campaign committee may choose to transfer its debts or obligations to that individual's subsequent exploratory committee or that candidate's campaign committee designated for a subsequent election.<sup>4</sup>

---

<sup>1</sup> A.R.S. § 16-914.

<sup>2</sup> A.R.S. § 16-915.01 (A).

<sup>3</sup> A.R.S. § 16-915.01 (B).

<sup>4</sup> A.R.S. § 16-915.01 (C).

## Campaign Contributions Limits

In November of 1986, the voters adopted an initiative to establish limits for campaign contributions to candidates for state and local office. These amounts are updated in January of every odd numbered year by the Secretary of State. The [contribution limits](#) which apply to local elections are different from those which apply to state elections. The use of a candidate's personal monies is not subject to the limitations.<sup>1</sup> Under the provisions of the campaign contribution limitations, each candidate must sign and file with the clerk a statement to indicate that the candidate has read the laws on campaign financing and reporting. This statement is a part of the nomination paper.<sup>2</sup>

An Attorney General's Opinion (No. I97-006) was issued on May 7, 1997, which states that a candidate may not accept contributions that exceed the limitations in effect on the date that the contribution is made even if the election is more than two years away and the candidate assumes the limitations will be increased. The limitations set in state law are increased, decreased or kept the same in accordance with the consumer price index and it would be impossible to predict accurately. Therefore, a candidate may only accept a contribution that is within the established limitation on the date the contribution is received.

As session law, the Legislature enacted additional requirements for 2014 candidate committees. A candidate with an existing candidate committee who is retaining surplus monies for a subsequent election shall transfer the monies to a 2016 or 2018 committee without amending the statement of organization. For a candidate who has already amended the statement of organization, the filing officer shall assist the candidate to conform with the law. A 2014 candidate committee with a zero balance must file a termination statement.

If a 2014 candidate committee has debt, the candidate has two options: retain the debt in the 2014 committee and retire the debt according to the contribution limits that were in effect on November 4, 2014 without affecting the candidate's contribution limit for the 2016 or 2018 election cycle; or transfer the debt to a 2016 or 2018 committee and any contributions collected to retire the debt count against the contribution limits.

## False Reports and Failure to File Statements; Notice by Clerk

A political committee which fails to file any of the campaign finance reports is subject to civil penalties.<sup>3</sup>

Failure to file occurs if:

- The report is not filed in a timely manner as prescribed by A.R.S. §16-913.
- The report is not signed in accordance with A.R.S. §16-913.
- A good faith effort to substantially complete the report as prescribed by A.R.S. §16-915 is not made.<sup>4</sup>

The clerk must send a [written notification](#) by certified mail to the political committee within fifteen days after it is determined that there may be a failure to make or file a campaign finance report. The notification shall include notice of failure to file the report and a statement of the applicable penalties. The political committee is liable for a late penalty of ten dollars for each business day there is failure to file the report up to a maximum of \$450. The clerk cannot refuse a late campaign finance report unless penalties imposed pursuant to A.R.S. § 16-924 are unpaid at the time of filing. If the political committee, candidate or exploratory committee has failed to file a report fifteen days after receipt of the written notice, the clerk must notify the city attorney of the committee's failure to file the report and the committee becomes liable for a civil penalty of twenty-five dollars for each subsequent day that the filing is late. The city attorney may then decide the appropriate enforcement action pursuant to A.R.S. § 16-924.<sup>5</sup>

The law states that a defense to an enforcement action exists if a committee's treasurer or the candidate can prove good cause for failure to file a campaign finance report. Good cause is defined as an illness or absence from the jurisdiction which interfered with the filing of the report or with the receipt of written notification.

A candidate who fails to file any campaign finance report may not offer himself for nomination or election to any salaried state or local office for a period of five years.<sup>6</sup> The names of all non-filers should be submitted to the Secretary of State's Elections Office.

<sup>1</sup> A.R.S. § 16-905 (N). Davis v. FEC. 554 U.S. 724 (This is a 2008 decision by the U.S. Supreme Court on the use of personal monies for a campaign.)

<sup>2</sup> A.R.S. § 16-905; §16-311.

<sup>3</sup> A.R.S. § 16-913 (J) & § 16-918. See also Attorney General Opinion I99-009.

<sup>4</sup> A.R.S. § 16-918.

<sup>5</sup> City of Sierra Vista v. Sierra Vista Wards System Voting Project, 229 Ariz. 519, 278 P.3d 297 (2012).

<sup>6</sup> A.R.S. § 16-918.

For any political committee that has failed to file three consecutive campaign finance reports, the clerk is to send the committee chairman and treasurer a written notice of intent to suspend the political committee. The notice of intent to suspend states that failure of the political committee to fully comply with all filing requirements for that committee, including any required payments, within thirty days of the date of the notice shall result in suspension of the political committee's authority to operate in the jurisdiction sending the notice. On suspension of the political committee's authority to operate, the clerk is no longer required to provide any further notice of delinquency to the political committee. This suspension does not reduce or eliminate the political committee's continuing obligation to make campaign finance filings and pay any fines, penalties, civil penalties or other sanctions that may continue to accrue and does not apply to a candidate's campaign committee during that election cycle.

Also, upon request from the Attorney General, county, city or town attorney or any officer with whom a political committee's finance reports are filed, the treasurer of the committee must provide any of the records required to be kept by the committee.<sup>1</sup>

### **Campaign Literature Sponsors**

A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat of any candidate or that makes any solicitation of contributions to any political committees must, with the exceptions noted below, disclose who has paid for the document. The disclosures must be printed clearly and legibly in a conspicuous manner or, if the advertisement is broadcast on a telecommunications system, the disclosure must be spoken with the following exception: For communications that are broadcast on a telecommunications system or other medium that can provide a viewable disclosure and a spoken disclosure, the disclosure may be made in printed format only and a spoken disclosure is not required. If the literature or advertisement has been authorized or paid for by the candidate or his campaign committee or an agent of either of them, it must be so noted on the documents. If not authorized or paid for by the candidate or his committee, then the name of the committee that paid for the ad and the name, address and phone number of the chairman of that committee must be included, plus a notation that the literature is not authorized by the candidate or his committee. This disclosure requirement (A.R.S. § 16-912) exempts bumper stickers, campaign buttons and similar small items as well as signs paid for by a candidate with campaign monies or by a candidate's campaign committee, or to a solicitation of contributions by a separate segregated fund from corporations or labor organizations. For printed material that is delivered or provided by hand or by mail, the disclosure must be printed clearly and legibly and include the words "paid for by" followed by the name of the entity making the expenditure and shall state that it is not authorized by any candidate or candidate's committee. If the communication is broadcast on a telecommunications system, the disclosure shall be both written and spoken at the end of the communication, except that if the written disclosure statement is displayed for at least five seconds of a thirty second communications broadcast or ten seconds of a sixty second communications broadcast, a spoken disclosure statement is not required. The written disclosure statement shall be printed in letters that are displayed in a height that is equal to or greater than four per cent of the vertical picture height.

If the expenditure for the literature or advertisements is an independent expenditure, the political committee, in addition to the disclosures required above, must include on the literature or advertisement the names and telephone numbers of the three political committees making the largest contributions made during the calendar year in which the independent expenditure is made to the committee making the independent expenditure. If an acronym is used to name any political committee, the name of any sponsoring organization of the committee must also be printed or spoken.

A political committee, corporation, limited liability company or labor organization that makes independent expenditures for literature or an advertisement relating to any one candidate or office within sixty days of the election, must send by certified mail a copy of the literature or advertisement to each candidate named or otherwise referred to in the literature or advertisement twenty-four hours after depositing it at the post office for mailing or twenty-four hours after submitting it to a telecommunications system for broadcast or twenty-four hours after submitting it to a newspaper for printing.<sup>2</sup>

Persons who violate the laws pertaining to campaign literature and advertisements are subject to a civil penalty of up to three times the cost of the literature or advertisement.

---

<sup>1</sup> A.R.S. § 16-904.

<sup>2</sup> A.R.S. § 16-917. See also Attorney General Opinions I00-007 and I03-003.

## Committees or Agents

The Arizona Constitution provides for the enactment of legislation requiring campaign contributions and expenditures made by committees on behalf of candidates for public office to be matters of general public knowledge before and after each election.<sup>1</sup> The records of contributions and expenditures are to be preserved for a period of three years after the filing of the finance report covering the receipts and disbursements evidenced by the records.<sup>2</sup>

### Private Corporations and Labor Organizations

Corporations, limited liability companies and labor organizations may now make independent expenditures in candidate elections and may contribute to an independent expenditure committee.<sup>3</sup> If they spend \$1000 or more in a city or town election in an election cycle they must register and notify the city or town clerk not later than one day after making that expenditure. Saturdays, Sunday and legal holidays are not included in this deadline calculation. Notification must be made each time an amount over \$1000 is expended; registration is only required once during an election cycle. The clerk is to provide public access to the information, but is not required to provide website access.

Registration shall include the name and address of the corporation, limited liability company or labor organization plus the name, title, e-mail address and telephone number of the person who authorized the independent expenditure. Each notification must include:

1. The name and address of the corporation, limited liability company or labor organization making the independent expenditure.
2. The amount of the expenditure and the name of the vendor or other payee receiving the expenditure.
3. The name of the candidate and race in which the expenditure was made and whether the expenditure was in support of or opposition to the candidate.
4. The communication medium and description of what was purchased with the expenditure.
5. The date of the expenditure.

If the corporation, limited liability company or labor organization did not register and provide a notarized sworn statement in advance of the expenditure, the corporation, limited liability company or labor organization shall file with the city clerk within five days after the initial \$1000 expenditure a notarized sworn statement that the person, agent or officer filing the registration and notice had authority to make that expenditure on behalf of the corporation, limited liability company or labor organization. Until the city clerk receives the notarized sworn statement, the clerk shall categorize the notification as unverified. If the city clerk does not receive the notarized sworn statement within the required five day time frame, the notification shall be categorized as both unverified and delinquent. The city clerk must make reasonable efforts to contact the entity that made the expenditure and remove the notification from public view within a reasonable time if unable to verify that the entity made the expenditure. Otherwise the entity is subject to the provisions for violation of campaign finance laws as provided in A.R.S. § 16-924 and a civil penalty of up to three times the total amount of the expenditure. The city clerk would report an alleged violation to the city attorney. There are very specific requirements for indicating the source of funds. Any literature or advertisement that is purchased with monies from a corporation, limited liability company or labor organization making an independent expenditure in an attempt to influence the outcome of a candidate election must disclose the name of the corporation, limited liability company or labor organization making the expenditure. Any disclosure statement required must be printed clearly and legibly in a conspicuous manner. If the communication is broadcast on radio, the information must be spoken at the end of the communication. If the communication is broadcast on a telecommunications system, the information must be both written and spoken at the end of the communication, except that if the disclosure statement is written for at least five seconds of a 30 second advertisement broadcast or 10 seconds of a 60 second advertisement broadcast, a spoken disclosure statement is not required. If the communication is broadcast on a telecommunications system, the written disclosure statement is to be printed in letters equal to or larger than four per cent of the vertical picture height. The literature or advertisement must include the words "paid for by" in the disclosure followed by the name of the entity making the expenditure and also state that it is not authorized by any candidate or candidate's campaign committee.

---

<sup>1</sup> Ariz. Const., Art. VII, Sec. 16.

<sup>2</sup> A.R.S. § 16-904 (I).

<sup>3</sup> A.R.S. § 16-914.02 & §16-919(C).

This requirement does not apply to bumper stickers, pins, buttons, pens and similar small items on which the disclosure statements cannot be conveniently printed or to a communication by an organization solely to its members.

Penalties for failure to register, notify or disclose include being subject to a civil action pursuant to A.R.S. § 16-924 brought by the city or town attorney for a civil penalty of up to three times the total amount of the expenditure. Any person who makes a knowingly false filing relating to an independent expenditure is guilty of a class 1 misdemeanor. Cities and towns may make their own reasonable cause determinations for violations of A.R.S. § 16-914.02 or may elect to continue to have the office of the Secretary of State make those reasonable cause determinations on their behalf. A civil or criminal enforcement action may not be filed until after the issuance of a reasonable cause determination.

Any entity that makes an independent expenditure and that is organized primarily for the purpose of influencing an election and that is a combination of corporations, limited liability companies or labor organizations or that is a corporation, limited liability company or labor organization that accepts donations or contributions shall file with the city clerk as a political committee under the regular campaign finance laws.

For the purposes of this filing requirement, an expenditure occurs on the date on which literature or advertisements are deposited at the post office for mailing, submitted to a communications system for broadcast or submitted to a newspaper or similar print medium for printing and, with respect to an expenditure for signs, the date on which a sign is first posted. Independent expenditure has the same meaning prescribed in A.R.S. § 16-901, except that it is made by a corporation or its subsidiaries, branches, divisions or affiliates and their families, a limited liability company or a labor organization and with the exception of the date of the expenditure as described in this paragraph.

### Website Posting

If your city or town has a population of more than two thousand five hundred persons and you have a website, you must post to that website, in a format that is viewable by the public, campaign finance information filed by candidates or other political committees including the statement of organization and each of the filed reports including those who have filed a \$500 threshold exemption statement.<sup>1</sup>

## FINANCIAL DISCLOSURE LAW

Candidates for elected office must file a [Local Public Officers Financial Disclosure Statement](#) with the city or town clerk when filing nomination papers.<sup>2</sup> This financial disclosure statement must include all the information as required by your city or town ordinance or resolution. **DO NOT USE THE STATE FORM FOR FINANCIAL DISCLOSURE**; it does not match the resolution passed by your council. Use the Local Public Officers Financial Disclosure Statement in this manual which includes the necessary adaptations for local elections.

Any candidate who knowingly files an incomplete or false financial disclosure statement is guilty of a class 1 misdemeanor and is subject to a civil penalty of \$50 for each day that a candidate fails to file the financial disclosure form up to a maximum of \$500.<sup>3</sup>

---

<sup>1</sup> A.R.S. § 16-916 (A) (3).

<sup>2</sup> A.R.S. § 38-545.

<sup>3</sup> A.R.S. § 38-544.

## CHAPTER III

# ELECTION PROCEDURES

Click here to go to the list of forms related to this Chapter

In this chapter the procedures involved in holding a municipal election are detailed. This explanation of election procedures includes sections on preparatory steps leading to the election, actions required on election day and post election procedures. This chapter can be used by the clerk as a checklist of necessary tasks in the election process. These procedures apply to both primary and general elections. Statutory requirements are quite specific for primary elections and most cities and towns have used these as a guide when applicable for holding a general election. **Many of these procedures will no longer be the responsibility of the city/town clerk when elections are consolidated with the state and county elections. The particulars of what the county will perform on your behalf and your responsibilities should be set forth in the contract entered into with the county election office.**

### PREPARATORY STEPS

#### Call and/or Notice of Election

Effective January 1, 1994, the Legislature changed the call and notice of election requirements to apply only to special district elections. Although cities and towns are, therefore, no longer required by state law to adopt or publish either a call or notice of election, a [call of election](#), in particular, remains a good way to inform the public about the election and to alert candidates to filing dates. Accordingly, we recommend publication of a call of election approximately 100 days prior to the election. Council adoption of the [call of election](#) is not necessary; the clerk can simply publish the information.

Although consolidation of elections has made it unnecessary, some cities may also wish to continue publication of a notice of election. This should be accomplished, if desired, approximately 30 days before the election. Once again, the notice can be adopted by the council or simply issued by the clerk.

If you have decided to publish the call, publication must comply with the guidelines found in A.R.S. § 39-204. The call should be published once a week for two consecutive weeks in a weekly paper or four times consecutively in a daily paper approximately 100 days prior to the election.

#### Political Signs<sup>1</sup>

State law now prohibits a city, town or county from removing, altering, defacing or covering any political sign if the following conditions are met:

1. The sign is placed in a public right-of-way that is owned or controlled by that jurisdiction.
2. The sign supports or opposes a candidate for public office or it supports or opposes a ballot measure.
3. The sign is not placed in a location that is hazardous to public safety, obstructs clear vision in the area or interferes with the requirements of the Americans with Disabilities Act (42 United States Code sections 12101 through 12213 and 47 United States Code sections 225 and 611).

---

<sup>1</sup> A.R.S. § 16-1019

4. The sign has a maximum area of sixteen square feet, if the sign is located in an area zoned for residential use, or a maximum area of thirty-two square feet if the sign is located in any other area.
5. The sign contains the name and telephone number or website address of the candidate or campaign committee contact person.

If the city, town or county deems that the placement of a political sign constitutes an emergency, the city, town or county may immediately relocate the sign. The city, town or county must notify the candidate or campaign committee that placed the sign within twenty-four hours after the relocation. If a sign does not meet the criteria listed above and the placement is not deemed to constitute an emergency, the city, town or county may notify the candidate or campaign committee that placed the sign of the violation. If the sign remains in violation at least twenty-four hours after the notification to the candidate or campaign committee, the city, town or county may remove the sign. The city, town or county shall contact the candidate or campaign committee and shall retain the sign for at least ten business days to allow the candidate or campaign committee to retrieve the sign without penalty. A city, town or county may prohibit the installation of a sign on any structure owned by the jurisdiction.

A city, town or county employee acting within the scope of the employee's employment is not liable for an injury caused by the failure to remove a sign unless the employee intended to cause injury or was grossly negligent.

These provisions do not apply to commercial tourism, commercial resort and hotel sign free zones as those zones are designated by municipalities. The total area of those zones shall not be larger than three square miles, and each zone shall be identified as a specific contiguous area where, by resolution of the municipal governing body, the municipality has determined that based on a predominance of commercial tourism, resort and hotel uses within the zone the placement of political signs within the rights-of-way in the zone will detract from the scenic and aesthetic appeal of the area within the zone and deter its appeal to tourists. Not more than two zones may be identified within a municipality.

These new rules apply only during the period commencing sixty days before a primary election and ending fifteen days after the general election, except that for a sign for a candidate in a primary election who does not advance to the general election, the period ends fifteen days after the primary election. State highways or routes, or overpasses over those state highways or routes, are not included in the areas where signs are allowed.

Local sign regulations may also apply. Placement of political signs on private property must follow local sign regulations if any.

### **Polling Places**

For elections which are not consolidated with state and/or county elections, the city or town clerk is charged with the responsibility of securing the use of polling places. The clerk will have to contact school administrators and those in charge of firehouses or other likely polling places, and secure permission to use these facilities for the election.

All polling places and early voting sites during the period of early voting must allow persons to electioneer and engage in other political activity in public areas and parking lots outside the 75 foot limit used by voters. This authority does not permit temporary or permanent construction of structures in the public areas and parking lots or blocking or otherwise impairing access to parking spaces. There is an exception to this requirement to allow electioneering outside the 75 foot limit but it comes with reporting requirements and limitations. The clerk can declare an emergency and specify that in one or more polling place locations electioneering is not allowed. This is only to be used if an act of god renders a previously set polling place as unusable or if the clerk has exhausted all options and there are no suitable facilities in a precinct that are willing to be a polling place unless a facility can be given an emergency designation. If you do this, you must post on the city/town website which polling places are affected and why, and this posting must take place two weeks before the election. Further you must include in this posting the number of attempts that were made to find a polling place before granting the emergency designation. If emergency conditions occur closer to the election date, then the clerk must give as much notice as possible and include how many attempts were made to find a polling place before granting the emergency designation.<sup>1</sup> All public schools are required to provide sufficient space for use as a polling place by any city or town when requested by the officer in charge of elections. However, the principal of the school may deny the request to provide space for either of the following

---

<sup>1</sup> A.R.S. § 16-411 (H).

reasons: the safety or welfare of the children would be jeopardized or space is not available at the school. It is a good practice to receive a confirming letter that the polling place will be free for the election. At the same time, the clerk may save time by reserving the same polling place for the general election. If no suitable polling place can be found within a precinct, polls can be located in an adjacent precinct.<sup>1</sup>

The Secretary of State has specified in the [Election Procedures Manual](#) a maximum allowable wait time of one hour for any election and methods to reduce voter wait time at the polls in the primary and general elections. The election marshal or inspector is to periodically measure the length of waiting times at the polling place throughout the day, and if the waiting time is thirty minutes or more, the marshal/inspector is to inform the officer in charge of elections and request additional voting machines, voting booths and board workers, as appropriate.

### Candidate's Nomination Forms

The following must be filed by each candidate at least ninety days and not more than one hundred twenty days before the date of the primary election:

1. Nomination paper which includes the candidate affidavit.
2. Nomination petitions.
3. Financial Disclosure Statement.
4. A Political Committee Statement of Organization or a \$500 Threshold Exemption Statement. (One of these forms must be filed before circulating petitions, distributing campaign literature or spending or receiving funds.)

(For more detailed information, see section on Nomination in Chapter II.)

### Registration Lists

Pursuant to state law, all cities and towns must use county registration lists.<sup>2</sup> Cities and towns must negotiate a contract at least sixty days in advance of the local election with the county recorder to obtain the county registration list. The clerk should also advise the recorder of the election day and request that the registration list reflect the names of all those registered prior to the closing date for registration.<sup>3</sup> Cities and towns holding consolidated elections will need to negotiate a contract with the county for election administration. This contract should be entered into significantly in advance of the election - 120 days or more.

The registration list is prepared in the form of precinct registers for the election.<sup>4</sup> The precinct register can now be prepared and used in electronic form. Disposition of the precinct register must be made by the city or town clerk in the following manner:

1. The precinct registers must be forwarded to the election board(s).
2. A copy must be retained by the city or town clerk for verification purposes on election day, and then this copy will be delivered by the clerk to the early election board.

---

<sup>1</sup> A.R.S. § 16-411 (B).

<sup>2</sup> A.R.S. § 9-823 and § 16-172.

<sup>3</sup> A.R.S. § 16-120.

<sup>4</sup> A.R.S. § 16-168 (B).

3. The board of election itself will use the original precinct register, which is referred to as the signature roster, and may use remaining copies to process voters or may place them in a convenient place outside the polls for use by the electors.<sup>1</sup>

If paper signature rosters are used, the signature roster must be bound with suitable covers and have on the outside front cover the title, "signature roster precinct, county, Arizona." On the cover a certificate must be printed or typed which is to be signed by the inspector. The certificate is to read substantially as follows:

I, \_\_\_\_\_, inspector of the board of election of \_\_\_\_\_ precinct, \_\_\_\_\_ county, Arizona hereby certify that the foregoing (excepting signatures in red) are true and correct signatures of all electors who voted in precinct \_\_\_\_\_ on \_\_\_(date)\_\_\_\_\_.

\_\_\_\_\_  
Inspector

If electronic media poll book systems are used for signature rosters, at least two electronic poll book systems are to be provided for each polling place which are capable of printing poll lists, tally lists and lists of voters, and a separate affidavit shall be supplied for the inspector's signature that is in substantially the same format as prescribed for paper signature rosters.<sup>2</sup>

### Chain of Custody Records

The clerk is required to maintain records that show the chain of custody for all election equipment and ballots during early voting through the completion of provisional voting tabulation.<sup>3</sup> Once again, this will not apply with a consolidated election; the county will maintain that record for all elections on the ballot.

### Inactive Voter Lists

At the same time as the precinct registers are received from the county, an inactive voter list should be provided. This list includes the names of electors who have been sent a verification of registration by the county recorder which has been returned by the post office and additional attempts to reach the voter are unsuccessful. The county recorder must maintain the elector's name on the inactive voter list for a period of four years or through the date of the second general election for federal office following the date of the above notice or until the registration is reactivated.<sup>4</sup>

If an elector appears at a polling place and his name does not appear on the registration list, the poll workers will first check to see if the name appears on the inactive voter list. If the name appears on the inactive voter list, the elector will be allowed to vote upon affirmation by the elector before an election official at the polling place that the elector continues to reside at the address indicated on the inactive voter list. The elector's name is entered on a separate page at the end of the signature roster and numbered consecutively. If the elector indicates that he lives at a new residence, the election official shall direct the elector to the polling place for the new address. Following the election, the clerk should submit the names of inactive voters who appeared and cast a ballot to the county recorder.

<sup>1</sup> A.R.S. § 16-169 (A).

<sup>2</sup> A.R.S. § 16-169 and § 16-511.

<sup>3</sup> A.R.S. § 16-621 (D).

<sup>4</sup> A.R.S. § 16-166 and § 16-583.

## Election Boards and Tally Boards

If your election is not consolidated, it is the duty of the city or town council to appoint election boards at least ten days before the primary and general elections. The election boards will consist of one inspector, two judges, and two clerks in cities and towns having a population of 2,000 or less.<sup>1</sup> In those cities and towns with precincts, it is suggested that election board members reside in the precinct in which the board is serving. Board members may, however, be from outside the precinct if not enough qualified individuals from the precinct are available to serve on the board.<sup>2</sup> Cities and towns exceeding 2,000 in population according to the last official census will appoint one inspector, two judges, and two clerks for each precinct or voting district within the corporate limits. State law provides that whenever possible persons appointed as inspectors should have previous experience as an election official. Technically, it is the governing body of the city or town which appoints the election boards; however, the city or town clerk has the responsibility for ensuring that election boards are appointed pursuant to the election laws.

In addition to the election board, the city or town may, at its option, appoint a tally board. The board would consist of the inspector of the election board, two judges and not less than two clerks. With the exception of the inspector, the tally board members may not be members of the election board.

The clerk is required to hold an instructional meeting of all inspectors and judges of the election boards not more than forty-five days prior to the election. Other members of the board may also be trained at the same time. The instructor must be qualified and have practical experience in the election process. Inspectors and judges of the election board must be instructed on:<sup>3</sup>

1. The operating mechanism of the voting device to be used.
2. The duties of election officers during an election.

The clerk may approve an alternate method of instruction and testing for election board members. Each election board member who successfully completes the instruction shall be certified as a premium board worker. This instruction includes at least eight classroom hours of instruction and a written exam on election law and procedures. A certified premium board worker is not required to receive additional training for thirty months from the date of certification, however, the clerk may require premium board workers to receive additional training at any time. In addition, the clerk is required to notify election board workers, in writing, of changes to the election law or procedures.

After the election officers have received this instruction, the city or town clerk will issue a certificate attesting to this fact. No person is permitted to serve as an election board worker at an election unless he has received this instruction or has been appointed to the election board on election day pursuant to A.R.S. § 16-533. Basically, this section provides that the members of the election board may appoint alternate election board members on the day of the election if for some reason the regular board member is not present at the opening of the polls. Such alternates must be appointed from a list of persons, supplied by the clerk, who may be available for appointment as alternate election board members if the necessity arises. These alternates do not have to reside in the precinct in which they serve as members of the election board. The governing body will fix the compensation of election board officers, and such compensation must be a charge against the city or town. The minimum payment permitted is thirty dollars per day.<sup>4</sup> There is now authority to appoint persons between the age of 16 and 18 as election board clerks. The person must be a United States citizen, be supervised by an adult who has been trained as an election officer, attend election board training and have written permission from their parent or guardian.<sup>5</sup> Once again, these appointments and requirements will be handled by the county in consolidated elections.

---

<sup>1</sup> A.R.S. § 9-825.

<sup>2</sup> A.R.S. § 16-531.

<sup>3</sup> A.R.S. § 16-532.

<sup>4</sup> A.R.S. § 16-536.

<sup>5</sup> A.R.S. § 16-531 (G).

## Financial Statement

The council is required to publish a true and correct statement of all money received into the public treasury and all money distributed from the treasury since the last report. This [election financial statement](#) (a sample form is provided) must be published in a local newspaper at least ten days before the biennial primary election; or if there is no such newspaper, the statement must be posted in three or more public places in the city or town.<sup>1</sup> As an alternative to developing new information, you may publish Schedule A of the state budget forms to meet this requirement.

## Ballots

A few Arizona cities and towns still use paper ballots for municipal elections. There are options open to cities and towns that wish to use another device for recording the votes of its citizens. The use and legal requirements of such voting apparatus are discussed in the [Election Procedures Manual](#) prepared by and available from the Secretary of State.

### Sample Ballots

At least forty-five days prior to both the primary and general election, the clerk must:<sup>2</sup>

1. Prepare a proof of a sample ballot which is printed without endorsement or certificate.
2. Mail a sample ballot proof to each candidate who has filed nomination papers and petitions.

The clerk must also post a notice indicating that sample ballots are available on request in the clerk's office. These sample ballots should be prepared and notice posted at the same time that early ballots are printed. (State law requires that early ballots be ready not later than thirty-three days before the Saturday preceding any city or town election.<sup>3</sup>)

Finally, cities and towns may distribute mailer-type sample ballots to the voters. There are a number of restrictions on the printing and distribution of such sample ballots.<sup>4</sup> First, the city or town must bear the cost of printing and distributing the sample ballots. Second, the return address of the mailer-type sample ballots shall not contain the name of an appointed or elected public officer nor may such a name be used to indicate who produced the sample ballot. Third, the mailing face of such a sample ballot must be imprinted with the city/town seal and the words "official voting materials" and the sample ballot must contain the following statement: "This is a sample ballot and cannot be used as an official ballot under any circumstances". Notice of the identification at the polls requirement and a list of acceptable forms of identification are to be included with the sample ballots. You do not need to mail a sample ballot to a voter who is on the permanent early voter list.

### Marking Paper Ballots

For those of you who use paper ballots, you may now permit voters to cast their votes by simply making a mark in the appropriate space.<sup>5</sup> They can make a mark in the designated space with any character or symbol that is noticeable to a reasonable person but does not identify or reveal the voter.

## Early Voting and Disabled or Hospitalized Voters

If your election is not consolidated, the clerk must make provisions for early voting. Early ballots must be ready thirty-three days before the election to allow any qualified elector to apply for an early ballot and to complete and return it to the clerk prior to the election.

The provisions for early voting apply to any election called according to the laws of the State. No reason for requesting an early ballot must be stated.<sup>6</sup>

---

<sup>1</sup> A.R.S. § 9-246.

<sup>2</sup> A.R.S. § 16-461 (A).

<sup>3</sup> A.R.S. § 16-545 (B).

<sup>4</sup> A.R.S. § 16-461 (F) and (G).

<sup>5</sup> A.R.S. § 16-502 (B) and (I).

<sup>6</sup> A.R.S. § 16-541 (A).

A qualified elector may make a single verbal or a single written and signed request for early ballots for both the primary and general election. For all requests, the requesting elector shall provide the address, date of birth and state or country of birth or other information that if compared to the voter registration on file would confirm the identity of the elector. However, electors may change the address on their voter registration when requesting an early ballot by including a signed affirmation that the information is true and correct.<sup>1</sup>

Early ballots must be available thirty-three days before the election but cannot be distributed more than twenty-seven days before the election. For all requests received thirty-one days or more before the election, you must send the requesting elector the early ballot not earlier than the twenty-seventh day before the election and not less than twenty-four days before the election. However, requests received prior to the election from military personnel, who are overseas, must be transmitted by mail, fax or other electronic format approved by the Secretary of State within twenty-four hours of the time the clerk receives the ballots from printing or the deadline for preparation - 33 days before the election.

In order to receive an early ballot form by mail, the elector's request must be received by the clerk no later than 5:00 p.m. on the eleventh day preceding the election. An elector may vote in person at an on-site early voting location set up by the clerk until 5:00 p.m. on the Friday preceding the election. If you receive requests within twenty-seven days before the election, you must respond to those requests within forty-eight hours of receiving the request. Saturdays, Sundays and other legal holidays are excluded from the computation of this forty-eight hour period.<sup>2</sup> Also, qualified electors as a result of an emergency occurring between 5:00 p.m. on the second Friday preceding the election and 5:00 p.m. on the Monday preceding the election may request to vote early in the manner prescribed by the city or town clerk. An emergency is any unforeseen circumstance which would prevent the elector from voting at the polls.<sup>3</sup>

Qualified voters in the United States armed services, their spouses and any dependent qualified to vote as well as persons whose information is protected pursuant to A.R.S. § 16-153, can request an early ballot with a Federal postcard application that contains both an early voter registration and an early ballot application.<sup>4</sup> A city or town clerk, upon receiving a request for early voting, must mail postage prepaid to the address provided by the requesting elector, fax or send by the internet or other electronic means as specified by the voter the early ballot. If no method is specified by the voter, the clerk must use the method specified in the Secretary of State's procedures manual to send the early ballot materials.<sup>5</sup> Only the elector may be in possession of their unvoted early ballot.<sup>6</sup>

Special provisions are set forth in State law concerning early ballots mailed to qualified voters in the armed forces, their spouses and dependents qualified to vote and persons whose information is protected.<sup>7</sup> You are required to provide a method by which overseas voters and those in the armed services can verify at no cost to the voter whether their ballot has been received.

The entire early ballot election packet must contain the following:

1. Instructions for the completion of the early ballot.<sup>8</sup>
2. A copy of the ballot with "Early" printed or stamped on the ballot.<sup>9</sup>
3. A ballot affidavit envelope that is "tamper evident" when properly sealed.<sup>10</sup>
4. A return envelope.<sup>11</sup>

---

<sup>1</sup> A.R.S. § 16-135.

<sup>2</sup> A.R.S. § 16-542 (C).

<sup>3</sup> A.R.S. § 16-542 (A) and (F).

<sup>4</sup> A.R.S. § 16-543.

<sup>5</sup> A.R.S. § 16-542 (D).

<sup>6</sup> A.R.S. § 16-542 (D).

<sup>7</sup> A.R.S. § 16-547 (B).

<sup>8</sup> A.R.S. § 16-547 (C).

<sup>9</sup> A.R.S. § 16-545 (A).

<sup>10</sup> A.R.S. § 16-547 (A) and A.R.S. § 16-545 (B) (2).

<sup>11</sup> A.R.S. § 16-542 (C).

Once the ballot has been voted and folded by the voter so the contents may not be revealed, the ballot affidavit envelope is sealed with the voted ballot inside. The ballot affidavit envelope is then returned to the city or town clerk in the return envelope and must be received by 7:00 p.m. on election day. The office of the city or town clerk must remain open until 7:00 p.m. on election day for the purpose of receiving early ballots.<sup>1</sup>

The city or town clerk must send a list of all voters applying for early ballots to the election board of the precinct in which the voter is registered.

#### Permanent Early Voting List

Any voter can request to be included on a permanent list of voters to receive an early ballot for any election for which the county voter registration roll is used to prepare the election register.<sup>2</sup> The county recorder is required to maintain the permanent early voting list as part of the voter registration roll. Cities and towns will need to work with their county election office on the implementation of this law passed during the 2007 legislative session particularly those jurisdictions that do not contract with the county for election assistance. For those who do contract with the county, the requirements under this new law will be performed by the county.

A voter who wishes to be placed on the permanent early voting list must make a written request supplying required information including name, residence address, mailing address, date of birth and signature. Not less than 90 days before any polling place election scheduled to be held in March or August, a notice must be mailed to each voter on the permanent early voting list with information on the dates of the elections that are the subject of the notice, the dates that the voter's ballot is expected to be mailed and the address where the ballot will be mailed. The notice must be delivered with return postage prepaid and must allow the voter to change the mailing address to which the ballot is to be sent to another location in the voter's county of residence; update the voter's address in the county of residence or request that the voter not be sent a ballot for the upcoming election indicated on the notice. Procedures are specified if the notice is returned undeliverable. If an election is not formally called by 120 days before the election, this notice is not required to be mailed.

A candidate, political committee or other organization may distribute permanent early voting list request forms to voters. If the request form includes a printed address for return, that address must be for the political subdivision that will conduct the election. For those of you contracting with the county to run your election, the return address should be to the county. Failure to use the political subdivision as the return addressee is punishable by a civil penalty of up to three times the cost of the production and distribution of the permanent early voting list request. In addition, all original and completed permanent early voting list request forms that are received by a candidate, political committee or other organization must be submitted within six business days after receipt by a candidate or political committee or eleven days before the election day, whichever is earlier, to the political subdivision that will conduct the election. Any person, political committee or other organization that fails to submit a completed permanent early voting list request form within the prescribed time is subject to a civil penalty of up to \$25 per day for each completed form withheld from submittal. Any person who knowingly fails to submit a completed permanent early voting list request form before the submission deadline for the election immediately following the completion of the form is guilty of a class 6 felony.<sup>3</sup>

For those on the permanent early voting list, an early ballot must be mailed on the first day of early voting unless the voter has notified the election officer within 45 days before the election to not send the ballot. A person remains on the list until they ask to be removed, until their registration is canceled or moved to inactive status, or if the notice mailed to the person is returned undeliverable by the post office and the voter cannot be contacted to determine whether they would like to remain on the list.

---

<sup>1</sup> A.R.S. § 16-551 (C).

<sup>2</sup> A.R.S. §16-544 (A).

<sup>3</sup> A.R.S. § 16-544 (L) and (M).

### Distribution of Early Ballot Request Forms

A candidate, political committee or other organization may distribute early ballot request forms to voters. The return address on the request form must be the address of the political subdivision that will conduct the election. All early ballot request forms that are received by a candidate or political committee must be transmitted within six business days after receipt by the candidate or political committee or eleven days before the election day whichever is earlier. Failure to submit a completed early ballot request form within the specified time is subject to a civil penalty of \$25 per day for each completed form not submitted. The penalty for failure to submit a form before the deadline for the election is a class 6 felony.<sup>1</sup>

### Disposition of Early Ballots

When the early ballot is received, the clerk must compare the signature with the signature of the elector as shown on the affidavit of registration.<sup>2</sup> The ballot is then held unopened until election day.

All early ballots and original affidavits received by the clerk before 7:00 p.m. on election day are delivered to the early election board by 7:00 p.m. on election day.<sup>3</sup>

A separate early election board can be appointed or members of the regular election board(s) can perform the duties of the early election board provided by statute. When an electronic voting system is used for early voting, the election board must consist of at least one inspector and two judges. The early election board will first ascertain the precinct in which the early voter lives. The board will then open the outer envelope and ensure by checking against the signature roster that the voter is a qualified elector of the precinct. The affidavit envelope will then be opened in such a manner as not to destroy the affidavit if the voter is a qualified elector, and the ballot must be removed without any form of examination and notation is made on the election records that the person has voted. (In a city or town using optical scan ballots, the clerk may request permission from the Secretary of State to use an alternative procedure for the processing of early ballots. The request shall be made in writing at least 90 days before the election at which the alternative procedure will be used.)<sup>4</sup>

### Disabled or Hospitalized Voters

A special procedure has been established to accommodate qualified electors who are unable to go to the polls because of continuing illness or physical disability.<sup>5</sup> Such a voter may make a verbal or written request for the clerk to have a ballot delivered by a special election board. Such requests must be made by 5:00 p.m. of the second Friday before the election, although the clerk is allowed to waive this time requirement for those who become ill or disabled after that date.<sup>6</sup> The clerk must honor such requests when possible up to and including the last day before the election. As many such special election boards as are necessary may be appointed. A person who is a candidate for office other than precinct committeeman is not eligible to serve on the special election board.<sup>7</sup>

Statutory arrangements have also been made for qualified electors hospitalized after 5:00 p.m. on the second Friday preceding the election but before 5:00 p.m. on election day. These individuals may request, from the city clerk, a special elections board to deliver a ballot to the elector's place of confinement. If a special elections board is able to respond to the request, the ballot must be sealed in an envelope and processed as a provisional ballot.<sup>8</sup>

State law provides that the members of this special election board be reimbursed for travel expenses at a rate to be determined by the council, and receive compensation in an amount determined by the council.<sup>9</sup>

---

<sup>1</sup> A.R.S. § 16-542 (J).

<sup>2</sup> A.R.S. § 16-550 (A).

<sup>3</sup> A.R.S. § 16-551 (C).

<sup>4</sup> A.R.S. § 16-552.

<sup>5</sup> A.R.S. § 16-549.

<sup>6</sup> A.R.S. § 16-549 (D).

<sup>7</sup> A.R.S. § 16-549 (A).

<sup>8</sup> A.R.S. § 16-549 (D).

<sup>9</sup> A.R.S. § 16-549 (B).

The manner and procedures for voting disabled electors must be the same as the procedures for early voters. After marking the ballot in private so that the board cannot observe the voting process, the disabled voter will hand the ballot in the sealed envelope to the special election board who must in turn deliver the ballot to the clerk.<sup>1</sup>

If a city or town council determines that a polling place is inaccessible to the elderly or handicapped, it must provide for alternative voting procedures as established by the state's chief election officer. Such procedures are available from the Office of the Secretary of State and were developed in accordance with the Federal Voting Accessibility for the Elderly and Handicapped Act.<sup>2</sup>

### Paper Ballots

Some cities and towns continue to use paper ballots for their elections. State law requires that ballots for early voters be available not later than the thirty-three days before any city or town election.<sup>3</sup> Consequently, the clerk should order final paper ballots after review of the sample ballot in time to meet this requirement. The number of paper ballots furnished to each precinct must not be less than an amount exceeding by one percent the number of active registered voters whose names appear on the precinct register of the city or town.<sup>4</sup> Paper ballots must be delivered to the inspector of each election board or each voting precinct at least forty-eight hours prior to the opening of the polls on election day. The clerk must take care to ensure that the outside of the packages are clearly labeled to denote the polling place for which the ballots are intended and the number of ballots within each package. All ballot packages must be sealed. The inspector, upon receiving the ballots, will issue a receipt.<sup>5</sup> The printing or distributing of counterfeit ballots is a class 5 felony.<sup>6</sup>

In elections where paper ballots are used, the ballots are to be printed and bound so that every ballot will have the names of the candidates in a different and alternating position from the preceding ballot.<sup>7</sup> Paper ballots must provide for a place to write in a person's name not appearing on the ballot at primary and general elections; enough space must be provided for the number of offices to be filled at the election.<sup>8</sup>

### Rotation of Names

Candidate names are rotated on the ballot in accordance with the privileges and immunities provision of the State Constitution.<sup>9</sup> If the number of candidates is equal to or less than the number to be elected, rotation of names is not required and the names should be placed in alphabetical order. For mail ballot elections where there are two or more precincts, candidate name rotation is required unless rotation is found to be impracticable in which case the name order is to be drawn by lot at a public meeting.<sup>10</sup> Rotation of names may not be possible in a consolidated election. We recommend that you use the same procedure for determining the name order as that used by the county.

### Optical Scan Balloting

Optical scan ballots must have material printed in the same order as for paper ballots, except that material may be printed in vertical or horizontal rows or on separate pages. Optical scan ballots also do not require a ballot stub. Titles of offices must be arranged in order to clearly indicate the candidates for each office and the number to be elected.

---

<sup>1</sup> A.R.S. § 16-549 (E) and § 16-548.

<sup>2</sup> A.R.S. § 16-581.

<sup>3</sup> A.R.S. § 16-545 (B).

<sup>4</sup> A.R.S. § 16-508.

<sup>5</sup> A.R.S. § 16-509.

<sup>6</sup> A.R.S. § 16-1002.

<sup>7</sup> A.R.S. § 16-464.

<sup>8</sup> See A.R.S. § 16-502 for the form of the ballot.

<sup>9</sup> Ariz. Const., Art. II, Sec. 13. See also Kautenburger v. Jackson, 85 Ariz. 128, 333 P2d 293, wherein the State Supreme Court made applicable to voting machines the rotation of names provision.

<sup>10</sup> A.R.S. § 16-464.

## Electronic Voting Systems

There are, of course, different procedures for ballot preparation if your city or town uses an electronic voting system. We suggest that both the city or town clerk and attorney review A.R.S. Title 16, Chapter 4, Article 4, (§ 16-441 - 16-468) before proceeding with an election using vote tabulating equipment. You may also wish to review the Election Procedures Manual available through the Office of the Secretary of State and the latest Help America Vote Act (HAVA) requirements.

## Supplies

The city or town must ensure that the proper election supplies are on hand at the polling place. These supplies include, but are not limited to, the following:

1. Loyalty oaths - six per poll.
2. Sample ballots.
3. Paper ballots.
4. Abstract of election (prepared by clerk).
5. Tally lists for paper ballots, if necessary, two per poll.
6. Poll lists, two or more per poll, as necessary.
7. Challenge lists.
8. 75-foot limit signs - three per poll.
9. Polling place signs.
10. Ballot boxes for paper ballots.
11. Official return envelopes.
12. Unofficial return envelopes.
13. Instructions to voters.
14. Needles and twine (for paper ballot stubs).
15. Sealing wax and matches or seals (for official return envelopes).
16. Red pens (for use of inspector in signing names of early and disabled voters).
17. Pencils and pens.
18. Scotch tape.
19. Thumb tacks.
20. Padlocks for ballot boxes.
21. Chalk for 75-foot limit marks.
22. Registration list including inactive voter list.
23. Signature rosters.
24. "Provisional Ballot" envelopes.
25. List of "qualified" write-in candidates.

26. Notice to Voters (only if information is not contained in sample ballot).
27. Notice of Right to Vote "Provisional Ballot."
28. List of acceptable identification for voters to present at the polls.

It is the duty of the governing body of the city or town to furnish these items at municipal expense to the election board officers.<sup>1</sup> In addition to the supplies noted above, each polling place is required to have two cards listing instructions to voters and two "right to vote a provisional ballot" notices.<sup>2</sup> The "Notice to Voters" card or poster with the information specified in A.R.S. § 16-514 must be posted in each voting booth, unless the information is printed on the sample ballot.<sup>3</sup> Although there is no legal requirement for a U.S. flag to be flown at each polling place in a municipal election, it is customary to display the flag while the polls are open.<sup>4</sup>

### **Electioneering: 75-Foot Limit**

Each polling place must be provided with three seventy-five foot limit signs prepared with two inch letters reading

"Seventy-five foot limit followed by this notice:

No person shall be allowed to remain inside these limits while the polls are open, except for the purpose of voting, and except the election officials, one representative at any one time of each political party represented on the ballot who has been appointed by the county chairman of such political party, and the challengers allowed by law. Voters having cast their ballots shall at once retire without the seventy-five foot limit. A person violating any provision of this notice is guilty of a class 2 misdemeanor..<sup>5</sup>

The purpose of this statutory provision is to prohibit any person other than voters and election officials from being within 75 feet of the polling place, to prevent interference with officials in the handling of voters and to prevent voter delay or intimidation.<sup>6</sup> A person is prohibited from taking photographs or videos while within the 75-foot limit. No person, after the opening of the polls, is allowed within the 75-foot limit except for the purpose of voting, other than election officials and the challengers allowed by law. An election official or a challenger who is allowed within the 75-foot limit is prohibited from electioneering or from wearing, carrying or displaying materials that identify or express support for or opposition to a candidate, political party or organization, a ballot question or any other political issue. "Electioneering" means when an individual knowingly, intentionally, by verbal expression and in order to induce or compel another person to vote in a particular manner or to refrain from voting expresses support for or opposition to a candidate who is on the ballot at that election or a ballot question which appears on the ballot at that election. A previous prohibition on electioneering materials being displayed at the polls has been repealed. A minor may accompany a voter into the polling place.<sup>7</sup>

A.R.S. § 16-515, does not prohibit a city or town from holding a special election in conjunction with a State primary or general election at the same time and at the same polling place. In other words, both city or town and county election officials may be present to conduct two different elections in the same polling place, without violating the 75-foot limit law.<sup>8</sup> The Attorney General has ruled that the handing out of campaign literature, the erection of signs, the distribution of any advertising material or the obtaining of any signatures on any form of petition within this area of the polls is clearly prohibited.<sup>9</sup>

<sup>1</sup> A.R.S. § 16-511.

<sup>2</sup> A.R.S. § 16-513.01 for required contents of this notice.

<sup>3</sup> See A.R.S. § 16-514 for sample form of this card.

<sup>4</sup> A.R.S. § 16-512.

<sup>5</sup> A.R.S. § 16-515.

<sup>6</sup> A.R.S. § 16-1017 & § 16-1018 and City of Phoenix v. The Superior Court in and for Maricopa County, 101 Ariz. 265, 419 P2d 49, and State v. Robles, 88 Ariz. 253, 355 P2d 895.

<sup>7</sup> A.R.S. § 16-515.

<sup>8</sup> City of Phoenix v. The Superior Court in and for Maricopa County, 101 Ariz. 265, 419 P2d 49.

<sup>9</sup> Attorney General Opinion, 64-32-L. See also A.R.S. § 16-1017.

State law also stipulates that it is unlawful for any person to electioneer within seventy-five feet of the polling place or an on-site early voting location.<sup>1</sup> In this regard, the Attorney General has ruled that radio or television broadcasts or the use of sound trucks heard within this area as well as the distribution of newspaper articles or ads, the delivery of handbills and the erecting of signs is prohibited.<sup>2</sup>

Except in the case of an emergency, any facility that is used as a polling place on election day or that is used as an early voting site during the period of early voting must allow persons to electioneer and engage in other political activity outside of the seventy-five foot limit in public areas and parking lots used by voters. Temporary or permanent construction of structures in public areas and parking lots or the blocking or other impairment of access to parking spaces for voters are not permitted.<sup>3</sup>

### **Kids Voting**

A minor voting in a simulated election at a polling place is subject to the same 75-foot limit restrictions prescribed for a voter. Persons supervising or working in a simulated election in which minors vote may remain within the 75-foot limit of the polling place.

### **Liquor Establishments - Election Days**

A question frequently asked by municipal officials is whether bars and package liquor stores may remain open on municipal election days. The answer is "Yes". The state law provision prohibiting sales of liquor on election days was repealed in 1993.<sup>4</sup> The law previously did not apply to municipal elections only to certain statewide elections.

### **Penal Provisions**

Election workers and other city or town officials involved in the election process should be informed as to the penal provisions included in the election laws. The statutes make the following offenses matters of criminal action:

1. Corruption of electors (A.R.S. § 16-1014).
2. Election wagers (A.R.S. § 16-1015).
3. Coercion or intimidation of an elector (A.R.S. § 16-1013).
4. Intimidation of an elector by his employer (A.R.S. § 16-1012).
5. Changing the vote of an elector by a corrupt means or by inducement (A.R.S. § 16-1006).
6. Interference with or corruption of an election officer; interference with voting equipment (A.R.S. § 16-1004).
7. Willful neglect of duty by an election officer (A.R.S. § 16-1009).
8. The refusal of an election officer to perform their duties (A.R.S. § 16-1010).
9. Altering, defacing or covering any political signs of a candidate between forty-five days prior to a primary election and seven days after a general election, except signs placed on private property or signs violating a State law or local ordinance (A.R.S. § 16-1019).
10. Offering or receiving any compensation for a ballot (A.R.S. § 16-547 (C)).

---

<sup>1</sup> A.R.S. § 16-1018 and Attorney General Opinion, 66-23.

<sup>2</sup> Attorney General Opinion, 64-32-L.

<sup>3</sup> A.R.S. § 16-411 (H).

<sup>4</sup> Chapter 133, Laws of 1993.

11. Offering or providing any consideration to acquire a voted or unvoted early ballot; receiving or agreeing to receive any consideration in exchange for a voted or unvoted ballot; possessing a voted or unvoted ballot with the intent to sell the voted or unvoted ballot of another person; soliciting the collection of voted or unvoted ballots by misrepresenting itself as an election official or as an official ballot repository or found to be serving as a ballot drop off site, other than those established and staffed by election officials; collecting voted or unvoted ballots and not turning those ballots in to an election official, the United States postal service or other entity permitted by law to transmit ballots; engaging or participating in a pattern of ballot fraud ("pattern of ballot fraud" means the person has offered or provided any consideration to three or more persons to acquire the voted or unvoted ballot of a person), knowingly marking a voted or unvoted ballot or ballot envelope with the intent to fix an election for his own benefit or for that of another person (A.R.S. § 16-1005).

### **Ballot Boxes and Ballots**

Each polling place must have at least one ballot box. Before receiving any ballots, the ballot box must be opened at the polling place to determine that the box is empty.

After the ballot boxes have been inspected, they must be closed and locked and remain in the polling place in the presence of bystanders until all ballots are counted and until the polls have closed.<sup>1</sup> There is an exception to this prohibition in the case of an emergency that leaves a polling place unusable. If a locked ballot box must be moved from the polling place during election day because of an emergency, at least two members of the election board must accompany the locked ballot box to the new polling location. If two members are not available for the move, one election board member and a law enforcement officer can transfer the box. After the move, two other election board members must verify the arrival of the ballot box at the new location and that it was not opened or damaged. The board members who accompany the box and those who verify its safe arrival must file a report detailing the actions taken to deal with the emergency move of the ballot box. They must also indicate on the official documents containing their oath that they witnessed the transfer of the ballot box and that it remained locked.

If the ballot box becomes too full during election day, the election board can remove some of the ballots and place them in the case that will be used for transfer of the ballots to the counting location. If this is done, the inspector and judges are to oversee the transfer and the number of ballots are to be counted and a record of the count is to be signed and placed in the transfer case.

### **Final Preparations**

The clerk should ensure that everything is in order the day before the election. This includes the physical arrangements - chairs, tables, voting booths and the necessary supplies for the election workers. Thorough preparation before the election should minimize the number of election-day crises and facilitate the orderly voting of local citizens.

## **ELECTION DAY**

### **Opening of Polls**

The polls are officially opened at 6:00 a.m. by proclamation. The proclamation must be made aloud by an election official and should be substantially as follows:

"The polls are now open."<sup>2</sup>

Upon entering the polls, there is a procedure which every elector must follow in order to obtain a ballot.

---

<sup>1</sup> A.R.S. § 16-564.

<sup>2</sup> A.R.S. § 9-825 and § 16-565.

1. The elector must announce his or her name and place of residence in a clear and audible voice to the election official in charge of the signature roster. If for some reason the elector cannot speak, the elector may present his name and residence in writing to the official. At the same time, the voter must present one form of identification that bears the voter's name, address and photograph or two forms of identification that bear the name and address of the voter or one form of acceptable photo identification with one form of non-photo identification that bears the name and address of the elector. If the voter does not provide suitable identification, the voter is allowed to vote a provisional ballot. The Secretary of State's "Procedure for Proof of Identification at the Polls" states the following forms of acceptable identification but notes that county election officials may allow other forms of identification so long as the requirements of A.R.S. § 16-579 (A) are met:

**List 1 - Acceptable forms of identification with photograph, name, and address of the elector:**

Valid Arizona driver license  
 Valid Arizona non-operating identification license  
 Tribal enrollment card or other form of tribal identification  
 Valid United States federal, state, or local government issued identification  
 An identification is "valid" unless it can be determined on its face that it has expired.

**List 2 - Acceptable forms of identification without a photograph that bear the name and address of the elector (two required in either paper or electronic format):**

Utility bill of the elector that is dated within 90 days of the date of the election. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television  
 Bank or credit union statement that is dated within 90 days of the date of the election  
 Valid Arizona Vehicle Registration  
 Indian census card  
 Property tax statement of the elector's residence  
 Tribal enrollment card or other form of tribal identification  
 Arizona vehicle insurance card  
 Recorder's Certificate  
 Valid United States federal, state, or local government issued identification, including a voter registration card issued by the County Recorder  
 Any mailing to the elector marked "Official Election Material"  
 An identification is "valid" unless it can be determined on its face that it has expired.

**List 3 - Acceptable forms of identification, one identification with name and photo of the elector accompanied by one non-photo identification with name and address:**

Any valid photo identification from List 1 in which the address does not reasonably match the precinct register accompanied by a non-photo identification from List 2 in which the address does reasonably match the precinct register  
 U.S. Passport without address and one valid item from List 2  
 U.S. Military identification without address and one valid item from List 2  
 An identification is "valid" unless it can be determined on its face that it has expired. All items from List 2 may be presented to poll workers in electronic format including on a smart phone or tablet.

There are special identification requirements for Native American electors which appear in the Secretary of State's Election Procedures Manual.

An elector who cannot provide proof of citizenship is allowed to vote a conditional provisional ballot.

Once the elector has provided acceptable identification, the poll worker compares the information on the identification with the information the elector announced. If the names are the same, the poll worker compares the identification to the signature roster. If the information matches up, the elector is allowed to vote a regular ballot. If there are discrepancies or the voter fails to provide identification, the voter is allowed to vote a conditional provisional ballot.

Both the residence address and the mailing address if different will be on the signature roster giving the poll workers the ability to use either address to determine if acceptable identification is provided.

If the elector does not provide identification as specified, the elector is issued a provisional ballot or a conditional provisional ballot. The provisional ballot envelope is marked to show that the elector did not provide identification. The poll worker notifies the elector that the person must provide identification to the election official before their ballot will be counted. The poll worker is to provide information to the voter on how and where the elector can provide the proof of identification which proof must be received by 5:00 p.m. on the third business day after the election unless the election was held in conjunction with the state general election in which case the deadline is five business days after the election.

2. If the elector's name is found upon the precinct register showing that the elector is legally entitled to vote in the precinct, the election officer in charge of the signature roster will repeat the name of the voter and allow the elector to enter the voting area.<sup>1</sup>
3. If a paper signature roster is used, the voter must sign his or her name on the signature roster. If by reason of physical disability the elector cannot sign his or her name, an election judge or inspector may sign the roster for the elector. In this case the name of the elector is written in red ink. For precincts in which an electronic poll book system is used, each qualified elector must sign the elector's name as prescribed in the [Election Procedures manual](#) adopted by the Secretary of State before receiving a ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector is written with the inspector's or judge's attestation on the same signature line.<sup>2</sup>
4. The clerk will then enter the elector's name on the poll list. The voter's names will be consecutively numbered by the clerk in the order of applications for ballots.
5. The judge must then give the unvoted ballot to the elector and the elector's name is checked on the precinct register. Any registered voter may, at the voter's option, be accompanied by a minor in the voting booth or be accompanied and assisted by a person of the voter's own choice during any process relating to voting or during the actual process of voting on a paper ballot, machine or electronic voting system. A person who is a candidate for an office in that election other than the office of precinct committeeman is not eligible to assist any voter.<sup>3</sup>
6. After the person has voted, an election board official must receive the voted ballot from the voter and in the presence of the election board remove the stub without opening the ballot and place the stub upon a string available for that purpose. The official deposits the ballot or, if the voter requests, hands the ballot to the voter and allows the voter to deposit the ballot in the ballot box. If the stub is removed from the ballot prior to receipt by the election official, it must be marked "spoiled" and placed with the spoiled ballots.<sup>4</sup>
7. If an elector's name is not on the precinct register, an election official shall determine whether the person is on the county inactive voter list. If the elector is on the inactive voter list, the elector must be allowed to vote upon affirmation by the elector before an election official at the polling place that the elector continues to reside at the address indicated on the inactive voter list. The elector's name is entered on a separate signature roster and numbered consecutively. If the elector indicates that he or she lives at a new residence, the election official must direct the elector to the polling place for the new address. Following the election, the clerk should submit the names to the county recorder for placement back on the general register.<sup>5</sup>
8. If a voter's name is not on the precinct register or the county inactive voter list and the voter presents an appropriate certificate from the county recorder issued 29 days prior to the election, the voter must be allowed to vote. The name of the voter is entered at the end of the signature roster. The voter is given the next register number and is then requested to sign in the appropriate space on the signature roster.<sup>6</sup>
9. If the voter's name is not on the precinct register or the county inactive voter list, upon presentation of identification verifying the identity of the elector that includes the voter's given name and surname and the complete residence address that is verified by the election board to be in the precinct, the person must be allowed to vote a provisional ballot.

---

<sup>1</sup> A.R.S. § 16-579 (A).

<sup>2</sup> A.R.S. § 16-579 (D) and (E).

<sup>3</sup> A.R.S. § 16-580 (G).

<sup>4</sup> A.R.S. § 16-580 (E).

<sup>5</sup> A.R.S. § 16-135 and § 16-583.

<sup>6</sup> A.R.S. § 16-584 (A).

On completion of the ballot, the election official must remove the ballot stub, place the ballot in a "provisional ballot" envelope and deposit the envelope in the ballot box. Within five business days after the election, or no later than the time at which challenged early voting ballots are resolved, the signature must be compared to the precinct signature roster of the former precinct where the voter was registered. If the voter's name is not signed on the roster and if there is no indication that the voter voted early, the provisional ballot envelope must be opened and the ballot counted. If there is information showing the person did vote, the provisional ballot must remain unopened and must not be counted. When a voter is allowed to vote a provisional ballot, the voter's name is entered on a separate signature roster page. These electors' names are numbered consecutively beginning with the number V-1. The elector must sign in the space provided. The ballot stub must be removed and the ballot of such a voter must be placed in a separate envelope on the outside of which is written:

- A. Precinct name or number.
- B. A sworn or attested statement of the elector that the elector resides in the precinct, is eligible to vote in the election and has not previously voted in the election.
- C. The signature of the elector.
- D. Voter registration number of the elector (if available).

If the voter's name is not on the precinct register or the county inactive voter list, and the voter has moved from the address listed on the voter's registration to another address within the same county and fails to notify the county recorder of the change of address before the date of the election, the voter must be allowed to correct the voter registration records and vote a provisional ballot. The voter must present a form of identification that includes the voter's given name and surname and the voters complete residence address that is located within the precinct for the voter's new residence address.

Upon completion of the ballot, the election official must remove the stub from the ballot, place the ballot in an envelope for provisional ballots to be verified and deposit the envelope in the ballot box. Within five business days after the election a provisional ballot must be compared to the signature roster for the precinct in which the voter was listed. If the voter's signature does not appear on the signature roster for that election and there is no record of that voter having voted early for that election, the provisional ballot shall be opened and counted. If the signature roster or early ballot information indicates that the person did vote in the election, the provisional ballot shall remain unopened and not be counted.<sup>1</sup>

Before such ballots are counted, the clerk must verify the registration of the voter. Such verification must be made by the clerk within five business days following the election. The verified ballots are counted by depositing the ballot in the ballot box and showing on the records of the election that the elector has voted. The voter receipt card or notification and identification card from the county recorder, if any, used for verification must be returned, if valid, to the elector within a reasonable time.<sup>2</sup>

### Notice to Voters

The clerk shall furnish in each voting booth a card or poster printed in English and in large plain type that contains instructions for the voting procedures of the ballot unless those procedures are printed in the sample ballot. The text for the card or poster is contained in A.R.S. § 16-514.

### Instructions to Voters

Where paper ballots are used, voting instructions will be provided on cards or posters placed in the booth. These instructions must clearly set forth the manner in which the paper ballot may be voted.<sup>3</sup>

---

<sup>1</sup> A.R.S. § 16-135.

<sup>2</sup> A.R.S. § 16-584 (E).

<sup>3</sup> A.R.S. § 16-513 and § 16-563.

### Notice of Right to Vote a "Provisional Ballot"

The clerk must furnish each precinct at least two "Right to Vote a Provisional Ballot" notices that contain the information set forth in the Secretary of State's Election Procedures<sup>1</sup>

### Provisional Ballot Counting Notification

Any person voting a provisional ballot must be notified by the election officer as to whether their ballot was counted or not and the reason if it was not counted.<sup>2</sup> Notification may be in the form of notice by mail, establishing a toll free phone number, internet access or other similar method.

### Challenging of Voters

Any qualified elector of the city or town may orally challenge any person attempting to vote.<sup>3</sup> Challengers may be persons who represent a candidate or the public. There are no specific provisions for challengers in non-partisan elections. We recommend that clerks establish a process for allowing a reasonable number of challengers in each polling place. This will not apply if the election is consolidated; in that case, persons wishing to be challengers must contact the county elections office. Early ballots may also be challenged pursuant to A.R.S. § 16-552.

The grounds for challenging are as follows: <sup>4</sup>

1. The voter is not the person whose name appears on the register.
2. Voter has not been a State resident for 29 days preceding the election.
3. Voter is not properly registered at "permitted address" (see A.R.S. § 16-121).
4. Voter has voted previously at that election.
5. Voter is not a qualified elector.

Once a challenge has been issued to the voter, he must take and subscribe to the oath in the affidavit of registration if he appears to be registered; and he may, at his option, be sworn and questioned by the election inspector.<sup>5</sup> Any returned U.S. mail addressed to the person challenged, the spouse of the person challenged or both, and to the address appearing on the precinct register or affidavit will be considered as sufficient grounds for a challenge. After examination, if a majority of the election board is satisfied that the challenge is invalid, the elector may vote their ballot. If the person challenged refuses to be sworn or refuses to answer questions material to the challenge or if a majority of the election board finds the challenge to be valid, the person shall be permitted to vote a provisional ballot.<sup>6</sup>

### Challenging Early Ballots

An early ballot may be challenged for the same reasons listed under challenging of voters in this manual. All challenges shall be made in writing with a brief statement of the grounds.<sup>7</sup> The procedures for such challenges are written for partisan elections. For those with consolidated elections, this should not be an issue because if there is a challenge it will be to the entire early ballot; for those with stand alone nonpartisan elections, your city attorney should be consulted on whether the challenge procedures apply and if so how they should be applied.

If an early ballot is challenged, it will be set aside and retained in the possession of the early election board or other officer in charge of early ballot processing. Within twenty-four hours of receipt of a challenge, the early election board or other officer in charge of early ballot processing shall mail, by first class mail, a notice of the challenge including a copy of the written challenge, and also including the time and place at which the voter may appear to defend the challenge, to the voter at the mailing address shown on the request for early ballot or, if none was provided, to the mailing address shown on the registration rolls. Notice shall also be mailed to the challenger at the address listed on the written challenge.

The board shall meet to determine the challenge at the time specified by the notice but, in any event, not earlier than ninety-six hours after the notice is mailed, or forty-eight hours if the notifying party chooses to deliver the notice by

---

<sup>1</sup> A.R.S. § 16-513.01.

<sup>2</sup> A.R.S. § 16-584 (F).

<sup>3</sup> A.R.S. § 16-591.

<sup>4</sup> A.R.S. § 16-591.

<sup>5</sup> A.R.S. § 16-592.

<sup>6</sup> A.R.S. § 16-592.

<sup>7</sup> A.R.S. § 16-552.

overnight or hand delivery, and not later than 5:00 p.m. on the Monday following the election. The board shall provide the voter with an informal opportunity to make, or to submit, brief statements regarding the challenge. The board may decline to permit comments, either in person or in writing, by anyone other than the voter, the challenger and the party representatives. The burden of proof is on the challenger to show why the voter should not be permitted to vote. The fact that the voter fails to appear shall not be deemed to an admission of the validity of the challenge. The early election board or other officer in charge of early ballot processing, is not required to provide the notices described in this section if the written challenge fails to set forth at least one of the grounds listed under challenging of voters in this manual as a basis for the challenge. In that event, the challenge will be summary rejected at the meeting of the board.

If the voter does not appear, the board shall send the voter a notice stating whether the early ballot was disallowed and, if disallowed, providing the grounds for the determination. The notice shall be mailed first class to the voter's mailing address as shown on the registration rolls within three days after the board's determination.

The election board must require one of the clerks to keep a list of the names of all persons challenged, the grounds of the challenge and the determination of the board upon the challenge. Copies of the list should be kept by the officer in charge of early ballot processing as a public record. Affidavits of challenged voters, decisions of election officials and challenge lists must be a part of the official returns and must be delivered to the city or town council.<sup>1</sup>

### **Poll List**

At least one election board clerk is required to keep a separate poll list in duplicate when electronic poll book systems are not used. This poll list is in addition to the signature roster and is a sequential record of those persons voting. The name of the person voting and the register number (order in which the person voted) will be recorded on the poll list. Poll lists are written on one side only, and all copies must be legible triplicate copies. In cities and towns with nonpartisan elections, the clerk may determine the manner in which the poll lists are made available to those interested in viewing them. The form of this poll list is specified in A.R.S. § 16-516.

### **Closing of Polls - Notice**

All polls are closed promptly at 7:00 p.m. It is the duty of the election official to proclaim the closing of the polls at one hour, at thirty minutes, at fifteen minutes and at one minute prior to closing. The official must make these announcements in front of the polling place. The inspector and two judges will determine the exact moment of closing. All persons who are in the line of waiting voters at the moment of closing must be permitted to vote.<sup>2</sup>

### **Counting of Ballots**

The public has a right to observe the counting of ballots and up to three additional people representing candidates for nonpartisan office or representing a political committee in support of or in opposition to a ballot measure may be present in the counting center. To determine who gets to fill these slots, those candidates or groups interested submit their names no later than ten days before the election and the three groups that get to observe are determined by the clerk drawing lots not less than seven days prior to the election.<sup>3</sup> If your city or town contracts with the county for the counting of your ballots at a central location, this process will be performed by the county.

For any primary or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge must compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast. This information is to be noted in a written report prepared and submitted to the clerk along with other tally reports.<sup>4</sup>

If paper ballots are used for the election, tally lists will be used to count the ballots. Ballots may not be counted until after the polls close, but the count should begin immediately after the closing of the polls. The tally lists will contain the titles of the offices to be filled, the names of the candidates and the number as given on the ballot of each proposed amendment and initiated or referred measure. Beside the name of each candidate or proposition, votes will be tallied in blocks of five. At the right-hand margin of the page there will be a place for insertion of the total vote cast for each candidate or each proposition measure.<sup>5</sup> When tallying paper ballots, election boards in many cities and towns string the counted ballots on a piece of twine provided for that purpose. On another piece of string the election board may

---

<sup>1</sup> A.R.S. § 16-594.

<sup>2</sup> A.R.S. § 9-825 and § 16-565.

<sup>3</sup> A.R.S. § 16-621 (A).

<sup>4</sup> A.R.S. § 16-602.

<sup>5</sup> A.R.S. § 16-604. (See A.R.S. § 16-517 for tally form.)

place all spoiled ballots, including those returned by the voter.<sup>1</sup> Ballots which are not counted must be marked defective on the backs thereof and signed by the inspector and one judge. If a question arises as to the legality of a ballot, in whole or in part, and the election board decides it is legal, the majority of the board must sign the back of the ballot after a concise statement of the facts leading to the objection is placed on the back of the ballot.

Due to the large number of early ballots cast in most elections and the provisional ballots cast at the polls, final election results will not be available until several days after election day. You may wish to inform your candidates of this fact well in advance of the election. In addition, on election night you should make sure that the press understands that election night results are not final and that after all the ballots are counted results could be substantially different in the order of candidates and who is elected at the primary.

### **COUNT AND TALLY OF EARLY BALLOTS**

State law specifies that the counting of early ballots cannot begin until the Secretary of State confirms that the election equipment passed logic and accuracy testing. Statute also prohibits the release of early voting results until all precincts have reported or one hour after the polls close, whichever occurs first.

### **WRITE-IN VOTES**

In tabulating write-in votes, election boards should be advised on the following:

1. Write-in votes for candidates who have failed to file a nomination paper will NOT be counted pursuant to A.R.S. § 16-312.
2. Each variation of the write-in candidate's name should be tabulated separately. The city or town council in canvassing the vote is required by law (A.R.S. § 16-645 (A)) to take into consideration the apparent intent of the voter as to write-in votes. Consequently the election board should not act as the judge of the write-in votes but rather leave this task to the council.
3. A.R.S. § 16-502 (B) states:

If you wish to vote for a person whose name is not printed on the ballot, write such name on the blank space provided, or write-in envelope, and put a mark according to the instructions next to the name so written.<sup>2</sup>

Therefore, it appears that the voter must write in the candidate's name - stickers or rubber stamps with the name should not be permitted - and place a mark in the appropriate space before the vote can be counted.

### **Abstract of Votes**

In addition to preparing a statement of the canvass or completion of the tally list, the election board must prepare an abstract of the vote and a condensed abstract of the vote. The abstract of the vote will be prepared in duplicate and must include:<sup>3</sup>

1. The number of ballots cast in the election.
2. The number of ballots rejected in making the count.
3. The number of votes cast for each person for the several offices.
4. The number of votes cast for or against each proposed amendment, initiated or referred measure.

One copy must be sent to the governing body of the city or town where the clerk of the governing body must immediately upon receipt make public the contents of the copy. Except when automatic vote tabulating equipment is used, the other copy will be posted outside the polling place.<sup>4</sup>

---

<sup>1</sup> See A.R.S. § 16-585 for the method of disposing of spoiled ballots.

<sup>2</sup> See A.R.S. § 16-400 for the definition of a mark and § 16-502 for marking instructions.

<sup>3</sup> A.R.S. § 16-618.

<sup>4</sup> A.R.S. § 16-618.

The condensed abstract must contain the following information.<sup>1</sup>

1. The number of ballots cast.
2. The number of votes rejected.
3. The number of votes cast for each candidate.
4. The number of votes cast for or against a proposed amendment, initiated or referred measure.

The condensed abstract contains only the surname of the candidate, beginning with the candidate at the head of the ballot and running consecutively by offices; however, the name of the office is not inserted on the condensed abstract. The number of each proposed amendment, initiated or referred measure will be listed with the number of votes received for or against the measure. Each condensed abstract must begin with the name of the precinct. Once this condensed abstract is prepared, it must be signed by the election inspector and either delivered immediately to the clerk or given by telephone to the clerk if such transmittal can be made promptly.<sup>2</sup>

### **Election Results - Majority of Votes**

When determining the election results under the nonpartisan election procedure set forth in A.R.S. § 9-821.01, a candidate is declared elected to office in the primary if that candidate has a majority of all votes cast. There is a new method for determining whether a candidate has received a majority of the votes cast. This new method was enacted to address the impact of consolidated elections. The new method calls for adding the total number of votes cast for all candidates for an office; dividing that sum by the number of seats to be filled at the election and then dividing the result of that calculation by two and rounding the number to the highest whole number. If more candidates receive a majority than there are offices to be filled, the candidates receiving the highest number of votes equal to the number of seats to be filled shall be declared elected.<sup>3</sup>

Charter cities will continue to follow their charter for the calculation. For those cities and towns which passed an ordinance specifying that the calculation of a majority of votes cast is based on the vote for mayor, that ordinance is no longer valid.

If there are offices that are not filled at the primary election, a general election must be held to fill any such offices. The primary is then considered as an election for nominating candidates for the ensuing general election. Candidates are qualified for inclusion on the general election ballot in order of the vote total they received at the primary. No more than twice the number of candidates for which there are vacancies on the council may be placed on the general election ballot. For example, if there were seven vacancies and no candidate in the primary received more than one-half of all the votes cast, then a maximum of fourteen candidates' names could appear on the ballot in the general election. Those 14 candidates receiving the highest number of votes at the primary would have their names placed on the ballot. In the event one of the fourteen candidates dies, is disqualified, is ineligible or withdraws before the general election, the candidate receiving the next highest number of votes is not entitled to have his or her name placed on the general election ballot.<sup>4</sup> Write-in candidates are permitted at the general election unless disqualified for any of the reasons set forth in A.R.S. § 16-312 and listed under write-in candidates in Chapter II of this manual.

---

<sup>1</sup> A.R.S. § 16-619.

<sup>2</sup> A.R.S. § 16-619.

<sup>3</sup> Chapter 105 of the Laws of 2015.

<sup>4</sup> Tellez v. Superior Court, 104 Ariz. 169, 450 P. 2d 106 (1969); Katan v. City of Prescott, 223 Ariz. 179, 221 P. 3d 370 and League General Counsel Opinions dated October 19, 1987 and May 18, 1993.

## AFTER THE ELECTION

### Retention of Materials

All election materials including the returns on the voted ballots are returned to the clerk of the governing body or in a consolidated election to the county election official. The clerk will deposit the election materials in the safe of the city or town treasurer who must keep them unopened and unaltered for a period of six months, at which time the materials will be destroyed without opening or examining the contents. Special requirements apply to signature rosters. They must be retained permanently. The used or voted election materials must not be removed from the safe unless a recount is ordered. Only upon the order of a court of competent jurisdiction will the voted materials be removed from the safe.<sup>1</sup> See also [retention requirements](#) from the State Library, Archives & Public Records Division.

### Canvass of Vote

Not less than six days nor more than twenty days after a primary or general election, the governing body of the city or town will meet to [canvass the votes](#). A resolution is not required. If the returns from any polling place are missing at the time of the meeting of the governing body, the canvass will be postponed on a day-to-day basis until all returns are received by the city or town council. Six days or six postponements is the maximum allowable under Arizona law.<sup>2</sup>

When the results of the canvass are determined, the city or town clerk must enter upon the records a statement known as the official canvass which must show:<sup>3</sup>

1. The number of ballots cast in each precinct and in the city or town.
2. The number rejected in each precinct and in the city or town.
3. The titles of the offices voted for and the name of each person voted for to fill the offices.
4. The number of votes by precincts and city or town received by each candidate.
5. The numbers and a brief title of each proposed city charter amendment and each initiated or referred measures voted upon.
6. The number of votes by precincts for and against such proposed city charter amendment or measure.

The certified permanent copy of the official canvass must be filed with the city or town clerk who must maintain and preserve it as a permanent public record.

### Candidates Receiving Equal Number of Votes

If two or more candidates receive an equal number of votes for the same office, and a higher number than any other candidate, whether it is after a canvass or recount, the result shall be determined by lot in the presence of the candidates. The clerk must give five days notice of the time and place of determining the election by lot to the candidates.<sup>4</sup>

### Letter Declaring Nomination or Certificates of Election

Upon satisfying itself of the validity of the election returns, the city or town council will declare results, notify the persons elected, and through the city or town clerk issue letters declaring nomination or certificates of election.<sup>5</sup> If the optional nonpartisan primary election procedure outlined in A.R.S. § 9-821.01 has been used by the city or town and the candidate has received a majority of the votes cast, the clerk will issue a certificate of election, effective the date of the general election.

---

<sup>1</sup> A.R.S. § 16-624.

<sup>2</sup> A.R.S. § 16-642.

<sup>3</sup> A.R.S. § 16-646.

<sup>4</sup> A.R.S. § 16-649.

<sup>5</sup> A.R.S. § 9-821 and 16-645.

A letter declaring nomination will not be issued to a write-in candidate if he is otherwise eligible to go on to the general election, unless he receives a certain number of votes specified in A.R.S. § 16-645. For nonpartisan elections, we believe a reasonable interpretation is that a write-in candidate must receive a total number of votes equivalent to at least the number of signatures required for nomination petitions for the same office before such a candidate is issued a letter declaring nomination.

### Assuming Office

Candidates receiving the necessary number of votes (as previously described) to be elected to office in the primary election will be sworn into office in the same manner and within the same time period as candidates elected during the general election. In other words, unless prescribed by charter or ordinance, all newly elected councilmembers and directly-elected mayors must assume their new office within twenty days after the canvassing of the general election votes.<sup>1</sup> Even if no general election is necessary because all offices are filled at the primary, candidates are not sworn in until after the date the general election would have been held. All successful candidates should be sworn in at the same time.

### Payment of Election Officials

As soon as practical after the election, the clerk will make provisions for payment of election board officials. Payment of these officials must be set by the city or town council. Generally, the amount is a specified hourly rate and must be at least \$30 per day pursuant to A.R.S. § 16-536. The Social Security Independence and Program Improvements Act of 1994 raises the compensation threshold for election board officials from \$100 per calendar year to \$1000 per calendar year, effectively exempting poll worker compensation from Social Security and Medicare taxes. Beginning January 1, 2000, it also indexes this threshold amount, allowing it to be adjusted with other such thresholds.

### Recount of Votes

City and town elections are covered by the recount statutes, and it is now an automatic requirement to do a recount of votes when two candidates have 10 or less votes separating them and when a recount could make a difference in which candidate is either elected or goes on to the general election. The cost of a recount is the city or town's responsibility. If a recount is performed, it is accomplished by order of the superior court.<sup>2</sup>

### Contest of Elections

Any elector in the city or town may contest the results of an election for one of several reasons; however, it must be remembered that persons allowing the election to proceed in violation of the law may not subsequently challenge the election procedure.<sup>3</sup> A contest of the election may be made on the following grounds:<sup>4</sup>

1. For misconduct on the part of the election board.
2. For ineligibility of the person elected to hold office at the time the person was elected.
3. For reason that the person elected has given to an elector, inspector, judge or clerk of the election board, a bribe or reward for the purpose of procuring his or her election or has committed any other offense against the elective franchise.
4. For reasons of illegal votes (non-electors, deceased, etc.). If unqualified electors vote at an election, the entire election is not invalidated, nor is there a requirement to reject the total vote of a polling place.<sup>5</sup> Where illegal voting is urged as the cause of the contest, the person bringing the contest, the contestant, must prove not only that illegal votes were cast, but also for whom or for what the votes were cast.<sup>6</sup>

---

<sup>1</sup> A.R.S. § 9-232

<sup>2</sup> A.R.S. § 16-661 and also see Attorney General Opinion, 74-21.

<sup>3</sup> Kerby v. Griffin, 48 Ariz. 434, 62 P2d 1131. See also General Counsel Opinion dated May 8, 1975.

<sup>4</sup> A.R.S. § 16-672. Moore v. City of Page. 148 Ariz. 151, 713 P.2d 813.

<sup>5</sup> Grounds v. Lawe, 67 Ariz. 176, 193 P2d 447.

<sup>6</sup> Millet v. Board of Supervisors of Maricopa County, 6 Ariz. App. 16, 429 P2d 508. Clay v. Town of Gilbert. 160 Ariz. 335, 773 P2d 233.

5. For reasons of erroneous count of the votes. When an election is contested on the grounds of erroneous rejection of votes, the burden of proof is on the contestant to show that such rejection materially affected the election.<sup>1</sup>

The contest is brought in the superior court of the county in which the elector resides. Election contests are neither actions at law nor suits in equity, but are considered as special proceedings.<sup>2</sup> Furthermore, election contests are purely statutory and depend upon statutory provisions for their conduct.<sup>3</sup> The results of an election must be declared by the election officials before any contest may be held.<sup>4</sup>

The person contesting the election must file a statement in superior court no more than five days after completion of the canvass and declaration of the result.<sup>5</sup> A contesting statement must set forth the following information:

1. Name and address of the person contesting the election and a statement that he is an elector of the city or town. The statement must allege that the person is an elector of the city or town, or it is legally insufficient.<sup>6</sup>
2. The name of the person whose right to hold office is being contested or the title of a contested measure or proposition.
3. The office which is subject to contest.
4. The particular grounds of the contest.

The statement must also contain an affidavit of verification by the person contesting the election that the person believes all the information contained thereon is true and correct to the best of his or her knowledge.<sup>7</sup> Immediately after receiving this statement, the clerk of the superior court will transmit a copy of the statement in addition to a summons to the person (the contestee) who is the subject of the contest. The contestee will have five days in which to answer the summons and file rebuttal, exclusive of the day of service.<sup>8</sup> If the contestee does not answer the summons, the court may hear the case *ex parte* (without the contestee taking part in the hearing).<sup>9</sup>

In the case of a city or town election, if the contestee fails to answer the summons within the five-day period, the court is obliged to set the time for hearing not later than 10 days after the date the contest was filed in superior court. If the contestee shows good cause why the hearing should be continued, a period of five additional days may be allowed for this purpose.<sup>10</sup>

If one of the parties to the contest cannot adequately prepare for trial without first inspecting the ballots, the person may petition the court for inspection. The person must post a bond with two sureties in the principal amount of \$300; and if the person loses the contest, he or she must pay for the cost of the inspection. The court appoints three persons to inspect the ballots, one selected by each of the parties, if applicable, and one by the court.<sup>11</sup> When the ballots have been destroyed without attempting a concealment or fraud prior to an election contest, the court will not void the election.<sup>12</sup>

Within five days after hearing all the proof and allegations of the parties, the court will make a determination either affirming or nullifying the results of the election. If the election is set aside and it appears that a person other than the contestee has the highest number of legal votes, the court will declare that person rightfully elected and void the election certificate of the person who failed to win the contest of election.<sup>13</sup> If the entire election is voided, the court may establish the procedures for dealing with the election. The judgment of an election contest is appealable. Court costs for the appeal may be recovered by the successful party.<sup>14</sup>

<sup>1</sup> *Millet v. Board of Supervisors of Maricopa County*, *op cit.*

<sup>2</sup> *Harless v. Lockwood*, 85 Ariz. 97, 332 P2d 887; *Griffin v. Buzard*, 86 Ariz. 166, 342 P2d 201. (See also *Griffin v. Buzard*, 86 Ariz. 174, 342 P2d 206.)

<sup>3</sup> *Fish v. Redeker*, 2 Ariz. App. 602, 411 P2d 40.

<sup>4</sup> *Schahrer v. Bell*, 34 Ariz. 334, 271 Pac. 715.

<sup>5</sup> A.R.S. § 16-673 (A).

<sup>6</sup> *Kitt v. Holbert*, 30 Ariz. 397, 248 Pac. 25

<sup>7</sup> A.R.S. § 16-673 (B).

<sup>8</sup> A.R.S. § 16-675 (A).

<sup>9</sup> A.R.S. § 16-675 (A).

<sup>10</sup> A.R.S. § 16-676 (A)

<sup>11</sup> A.R.S. § 16-677.

<sup>12</sup> *Findley v. Sorenson*, 35 Ariz. 265, 276 Pac. 843.

<sup>13</sup> A.R.S. § 16-676 (B) and (C).

<sup>14</sup> *Hunt v. Campbell*, 19 Ariz. 254, 169 Pac. 596.

# CHAPTER IV

## SPECIAL PURPOSE ELECTIONS

[Click here to go to the list of forms related to this Chapter](#)

This chapter is devoted to a discussion of the various other types of elections which a city or town holds periodically to meet specific needs and requirements. The procedures for holding initiative and referendum, bond and budget adjustment (home rule option, base adjustment and emergency or one-time override) elections are discussed at length, as well as charter and charter amendment elections. All special elections must be posted on the city/town website at least 90 days before the election if the population of your city or town exceeds 2,500.<sup>1</sup>

### Election Consolidation

In accordance with A.R.S. § 16-204, it is required that all (see special requirement for bond elections) city or town special elections except for any charter adoption or amendment elections be held on the following dates:

- the second Tuesday in March
- the third Tuesday in May
- the tenth Tuesday before the first Tuesday after the first Monday in November
- the first Tuesday after the first Monday in November. All bond elections must be held on this date.

Mail ballot elections must also be held on the four consolidated dates.

The election consolidation law requires consolidation of dates only; it does not require consolidation of election administration. However, if other jurisdictions within the city or town are holding elections on the same dates the city or town should explore consolidation of administration to make the election process as convenient as possible for voters.

**Special Note:** A city or town can not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the city or town, for the purpose of influencing the outcomes of elections.<sup>2</sup> "Influencing the outcomes of elections" means supporting or opposing a candidate for nomination or election to public office or the recall of a public officer or supporting or opposing a ballot measure, question or proposition, including any bond, budget or override election and supporting or opposing the circulation of a petition for the recall of a public officer or a petition for a ballot measure, question or proposition in any manner that is not impartial or neutral.

The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of city or town focused promotional expenditures that occur after an election is called and through election day. This prohibition does not include routine city or town communications which are defined as messages or advertisements that are germane to the functions of the city or town and that maintain the frequency, scope and distribution consistent with past practices or are necessary for public safety.

---

<sup>1</sup> A.R.S. § 41-4602.

<sup>2</sup> A.R.S. § 9-500.14.

This prohibition does not include distribution of bond informational pamphlets in the presentation of factual information in a neutral manner nor does it include a city or town reporting on official actions of the governing body. City and town resources, including facilities and equipment, can be used for government-sponsored forums or debates if the government sponsor remains impartial and the events are purely informational and provide an equal opportunity to all viewpoints. "Government-sponsored forum or debate" is defined as any event, or part of an event or meeting, in which the government is an official sponsor, which is open to the public or to invited members of the public, and whose purpose is to inform the public about an issue or proposition that is before the voters. This appears to preclude government sponsored candidate forums. The rental and use of a public facility by a private person or entity that may lawfully attempt to influence the outcome of an election is permitted if it does not occur at the same time and place as a government-sponsored forum or debate.

Employees of a city or town shall not use the authority of their positions to influence the vote or political activities of any subordinate employee. Violations will be prosecuted by the county attorney or the attorney general, and the court may impose a civil penalty not to exceed five thousand dollars plus any amount of misused funds subtracted from the city or town budget against a person who knowingly violates or aids another person in violating this law. The person determined to be out of compliance with this section is responsible for the payment of all penalties and misused funds. City or town funds or insurance payments shall not be used to pay these penalties or misused funds. All misused funds must be returned to the city or town whose funds were misused.

The Attorney General has concluded that elected officials may use their official titles in letters or political advertisements so long as no public monies are used to fund such communication.

## INITIATIVE AND REFERENDUM ELECTIONS

Article IV, Part 1, Section 1 (8) of the Arizona Constitution makes the initiative and referendum process applicable to all incorporated municipalities. The provisions of A.R.S. Title 19, Chapter 1, also apply to the legislation of such municipalities and the duties required of the Secretary of State as to State legislation will be performed by the clerk.<sup>1</sup> In reviewing initiatives and referendums, the courts require strict compliance for referendums but only substantial compliance for initiatives.<sup>2</sup> We recommend that the clerk have a pre-prepared packet available for distribution to an individual or group seeking to circulate an initiative or referendum petition. A model [Initiative and Referendum Packet](#) is included in this manual.

## INITIATIVE ACTIONS

The electors within any city or town may initiate a local law or ordinance by securing the signatures of 15% of the qualified electors of the city or town on a petition.<sup>3</sup> The Arizona Supreme Court ruled in a 1990 decision<sup>4</sup> that the basis for calculation of signatures for initiative may be specified by local ordinance or charter provision. (A model ordinance is available from the League.)<sup>5</sup> In the absence of an ordinance or charter provision, the basis for calculating the number of signatures is the whole number of votes cast (valid ballots) at the last city or town election where a mayor or councilmember was chosen last preceding the submission of the application for the initiative petition.<sup>6</sup> The individual or group circulating an initiative petition must comply with the provisions of State law on initiatives. Official initiative proponents have the right to intervene as a party whenever the constitutionality, legality or application of a law that was enacted, through the initiative they sponsored, is at issue.<sup>7</sup> The local law proposed must be a legislative not an administrative act and must deal with a single subject.<sup>8</sup>

---

<sup>1</sup> A.R.S. § 19-141 (A).

<sup>2</sup> Western Devcor Inc. v. City of Scottsdale, 168 Ariz. 426, 814 P.2d 767; DeSzendeffy v. Threadgill, 178 Ariz. 464, 874 P.2d 1021; Feldmeier v. Watson, 211 Ariz. 444, 123 P.3d 180; Wilhelm et al v. Brewer, CV-08-0269; Forszt v. Rodriguez, ArizApp Div 2, 130 P3d 538, 212 Ariz. 263; Pedersen v. Ken Bennett, 230 Ariz. 556; 288 P. 3d 760; Arrett v. Bower, 237 Ariz. 74, 345 P. 3d 129 and A.R.S. § 19-101.01

<sup>3</sup> Ariz. Const., Art. IV, Part 1, Sec. 1 (8). For the form of the petition, the manner of circulating the petition and the methods of filing the petition, see A.R.S. § 19-101 thru 19-129.

<sup>4</sup> City of Flagstaff v. Hon. Richard K. Mangum, 164 Ariz. 395, 793 P2d 548.

<sup>5</sup> League model ordinance on initiatives and referendums.

<sup>6</sup> A.R.S. § 19-143.

<sup>7</sup> A.R.S. § 12-921.

<sup>8</sup> Robertson v. Graziano, 189 Ariz. 350, 942 P.2d 1182; Arizona Together et al v. Brewer, 214 Ariz. 118, 149 P. 3d 742; McLaughlin v. Bennett 225 Ariz. 351, 238 P. 3d 619; Save Our Vote v. Ken Bennett, 231 Ariz. 145; 291 P. 3d 342.

## Actions Upon Filing Initiative Petition

Once the initiative petition has been filed with the clerk of the governing body, one of the following actions may occur:

1. The governing body may enact the initiative petition as an ordinance and refer the ordinance to a referendum vote.
2. The governing body may enact the initiative petition without referring it to a referendum vote. In that case, the ordinance is subject to a referendum petition.
3. The council may decline to enact the initiative petition. In that event, the council may call a special election, if special elections for voting on initiatives have been previously provided for by ordinance.<sup>1</sup> If a special election is not allowed or is not called, the clerk is required to place the initiative measure on the ballot at the next city/town election. The deadline for submission of petitions is 120 days prior to election.<sup>2</sup>

Courts do not address matters of substantive interpretation of an initiative prior to an election, only procedural defects. Challenges to any initiative based on its substance must wait until enactment.<sup>3</sup>

## REFERENDA ACTIONS

The two types of referenda actions are as follows:

1. Referendum for charter amendments.<sup>4</sup>
2. Referendum by petition.

### Referendum for Charter Amendments

In charter cities the council may propose and submit charter amendments to the people for a vote of ratification.

### Referendum by Petition

Before an ordinance not adopted as an emergency measure becomes effective, there is a 30-day period after its passage in which a referendum petition may qualify against the ordinance.<sup>5</sup> During this 30-day period a person or group intending to file a referendum against an ordinance or resolution may apply for an official number for their petition, and the clerk must provide such person or organization with a full and correct copy of the ordinance or resolution as finally adopted. The ordinance or resolution or in the case of a rezoning a copy of the approved minutes must be attached to the petition.<sup>6</sup> If a copy of the ordinance or resolution proposed as a referendum is not available to such person or organization at the time of making application for an official number, or the same business day as the application is submitted, the thirty-day period for filing a referendum begins on the day that such ordinance or resolution is available from the clerk. State law now requires that the copy of the measure attached to the referendum petition be one signed by the mayor with the text of the ordinance or other measure set out in full including the original and any amended text. If there is no ordinance or resolution, then the minutes approved by the council and signed by the clerk are what must be attached to the referendum petition. Signatures collected on a petition without the full and correct copy of the measure attached are invalid.<sup>7</sup> The ordinance, however, is effective immediately if it carries the emergency clause, and such ordinances are not subject to a referendum petition.<sup>8</sup> It takes at least ten percent of the municipal electors to propose a referendum on legislation enacted by the council,<sup>9</sup> the number of qualified electors required to sign the petition is computed from the whole number of votes cast (valid ballots) at the last citywide or townwide election where a mayor or an at-large councilmember was chosen last preceding the submission of the application for the referendum petition.<sup>10</sup> The council may not voluntarily submit a measure to the people in the absence of a referendum petition, except in the case of proposed amendments to the charter in a charter city<sup>11</sup> or where referral is required or specifically

<sup>1</sup> General Counsel Opinion dated August 19, 1991.

<sup>2</sup> Ariz. Const. Art IV, Part 1, Sec. 1 (4). Cuvelier v. Schmitz, 974 P. 2d 995.

<sup>3</sup> Winkle v. City of Tucson, 190 Ariz. 413, 949 P.2d 502; League v. Brewer, 213 Ariz. 557, 130 P.3d 538.

<sup>4</sup> A.R.S. § 19-143 (B).

<sup>5</sup> A.R.S. § 19-142.

<sup>6</sup> Lawrence v. Jones, 199 Ariz. 446, 18 P.3d 1245.

<sup>7</sup> A.R.S. § 19-142 (C & D); A.R.S. § 19-112 and 19-111 (B). Fidelity National Title v. Town of Marana, 220 Ariz. 247, 204 P. 3d 1096.

<sup>8</sup> A.R.S. § 19-142 (B).

<sup>9</sup> Ariz. Const., Art. IV, Part 1, Sec. 1 (8).

<sup>10</sup> A.R.S. § 19-142. Jones v. Paniagua, 221 Ariz. 441, 212 P. 3d 1142.

<sup>11</sup> City of Scottsdale v. Superior Court in and for Maricopa County, 103 Ariz. 204, 439 P. 2d 290, A.R.S. § 19-143.

General Counsel Opinion dated July 1, 1996 concluded that a city or town does not have the authority to voluntarily submit an ordinance to a vote of the people. See also General Counsel Opinion dated October 20, 1977.

allowed by statute.<sup>1</sup> This prohibition means that the council cannot refer an ordinance to the people in the absence of a referendum petition. There is an exception for sales tax issues - see A.R.S. § 42-6006. Only legislative acts of the council are subject to referendum, and there are a number of court cases that discuss the differences between legislative and administrative acts.<sup>2</sup>

### Actions Upon Submitting Referendum Petition

If the requisite number of signatures are obtained on a referendum petition, it may be filed with the clerk.<sup>3</sup> If the clerk refuses to accept or file a referendum petition, the clerk must provide the person submitting the petition with a written statement of the reason for refusal. Within five days after refusal, any person may apply to the Superior Court for a writ of mandamus to compel the clerk to file the petition, or a citizen may file a complaint with the attorney general or county attorney.<sup>4</sup> The petition must be filed within 30 days after the passage of the ordinance against which the petition is directed.<sup>5</sup> The ordinance will not become effective until an election has been held on the referendum petition. If a majority of those voting vote in favor of the referendum, the provisions of the ordinance will become effective after the election is canvassed. When the majority of voters do not approve the referred measure, the provisions of the ordinance do not become effective and it is repealed.<sup>6</sup>

If previously authorized by ordinance, a referendum election can be held as a special election, or the question can be placed on the ballot of the next primary or general election.<sup>7</sup>

## INITIATIVE AND REFERENDUM PETITIONS

In the absence of a city or town ordinance or charter provision for the initiative and referendum, the following provisions of State law must be followed:

1. **Application.** A person or organization wishing to file an initiative or referendum petition must file an application with the clerk on a form provided by the Secretary of State setting forth:<sup>8</sup>
  - A. Name or, if an organization, its name and the names and titles of its officers.
  - B. Address.
  - C. Intention to circulate and file a petition.
  - D. A description of no more than 100 words of the principal provisions of the measure.<sup>9</sup>
  - E. Text of the initiative or referred measure in no less than eight-point type. (Maps, charts and graphs are exempt from this type size requirement.) For a referendum petition, the "measure" is defined in State law as the ordinance or resolution being referred or, if neither was passed, that portion of the council minutes that reflects the council action. For zoning ordinances being referred, a legal description of the property and any amendments to the zoning ordinance must also be attached.<sup>10</sup>
  - F. An application must be accompanied by a statement of organization of the political committee or a \$500 threshold exemption statement and the clerk is prohibited from accepting an application that is not accompanied by one of these forms.<sup>11</sup>

<sup>1</sup> A.R.S. § 42-6006 for authority to hold an election relating to local sales tax.

<sup>2</sup> Wennerstrom v. City of Mesa. 169 Ariz. 485, 821 P.2d 146; Wade v. Greenlee County. 173 Ariz. 462, 844 P. 2d 629; Fritz v. City of Kingman. 191 Ariz. 432, 957 P.2d 337; Redelsperger v. City of Avondale. 207 Ariz. 430, 87 P.3d 843; Stop v. Jones. 211 Ariz. 576, 125 P.3d 396; Israel v. Town of Cave Creek. 196 Ariz. 150, 993 P.2d 1114; Grosvenor Holdings L.C. v. City of Peoria. 195 Ariz. 137, 985 P.2d 622 and Attorney General Opinion 90-068. See also General Counsel Opinion dated May 11, 1995.

<sup>3</sup> A.R.S. § 19-121 and 19-141.

<sup>4</sup> Barry v. Albery. 173 Ariz. 387, 843 P.2d 1279 and Clay v. Town of Gilbert. 160 Ariz. 335, 773 P. 2d 233.

<sup>5</sup> A.R.S. § 19-142.

<sup>6</sup> A.R.S. § 19-126 (A).

<sup>7</sup> Dewey v. Jones. 159 Ariz. 409, 767 P. 2d 1199.

<sup>8</sup> A.R.S. § 19-111.

<sup>9</sup> Committee for Neighborhood Preservation v. Graham. 14 Ariz. App. 457, 484 P. 2d 226. Arizona Court of Appeals decision in 2006 on completeness of referendum petitions. Sklar v. Town of Fountain Hills. 220 Ariz. 449, 207 P. 3d 702.

<sup>10</sup> A.R.S. § 19-121.

<sup>11</sup> A.R.S. § 19-111 (A).

G. Request for issuance of an official number to appear on all the petitions.

The clerk will then issue an official number to the applicants. (An amended statement of organization must be filed within five days of receipt of the number if it is not given at the original filing.) This number must appear on the lower right hand corner of both sides of the petition signature sheets. The clerk must also make available by electronic means the text of Title 19 of the Arizona Revised Statutes that contains the laws governing initiative and referendum plus any rules adopted by the Secretary of State relating to initiative and referendum or if the person so requests give the applicant a pamphlet, prepared by the Secretary of State's office, containing the laws governing initiative and referendum and any rules adopted by the Secretary of State regarding the same. The Secretary of State is required to furnish these [pamphlets](#) to cities and towns. In addition, the clerk must furnish the applicant with a Statement of Organization and a \$500 Threshold Exemption Statement form with a notice stating that one of these forms must be filed before valid signatures can be collected.

H. Circulators. A circulator is not required to be a resident of Arizona but must be otherwise qualified to register to vote in Arizona at all times during circulation of the petition. Out of state circulators must register with the Secretary of State.

I. The political committee that is the proponent of the petitions and that files the petition must organize the signature sheets and group them by circulator. The clerk may return as unfiled any signature sheets that are not so organized and grouped.

2. Initial Receipt. When the person or group circulating the petition returns the petitions, the clerk immediately issues an [initial receipt](#). This receipt can be an estimate of the number of sheets and signatures filed and does not indicate that the measure has qualified for the ballot. After this receipt is issued, no additional petitions may be filed.<sup>1</sup> Once the petition is filed it cannot be withdrawn as a whole nor can individual signatures be withdrawn.<sup>2</sup>

3. Initial Review. In the absence of a city or town ordinance or charter provision regarding verification of signatures, within 20 days, excluding Saturdays, Sundays and legal holidays, after the filing of an initiative or referendum petition and issuance of receipt to the person or organization submitting the petitions, the city or town clerk must:<sup>3</sup>

A. Remove the following:

- (1) Those sheets not attached to a copy of the complete title and text of the measure.
- (2) The copy of the title and text from the remaining petition sheets.<sup>4</sup>
- (3) Those sheets not bearing the correct petition serial number in the lower right-hand corner of each side.
- (4) Those sheets containing a circulator's affidavit that is not completed or signed or that has been modified.
- (5) Those sheets on which the affidavit of the circulator is not notarized, the notary's signature is missing, the notary's commission has expired or the notary's seal is not affixed.
- (6) Those sheets on which the signatures of the circulator or the notary are dated earlier than the dates on which the electors signed the face of the petition sheet.
- (7) Those sheets on which the circulator of the petition has not stated whether he is a paid or volunteer circulator in accordance with A.R.S. § 19-101 and § 19-102.

---

<sup>1</sup> Fleischman et al v. Protect our City. 214 Ariz. 406, 153 P. 3d 1035.

<sup>2</sup> Attorney General Opinion I84-062 and A.R.S. § 19-113.

<sup>3</sup> A.R.S. § 19-121.01 and 19-141 (C). Van Riper v. Threadgill, 183 Ariz. 580, 905 P. 2d 589. Transportation Infrastructure et al v. Brewer. 219 Ariz. 207, 196 P. 3d 229; Meyers v. Bayless. 192 Ariz. 376, 965 P. 2d 768; Forszt v. Rodriquez. 212 Ariz. 263, 130 P.3d 538 and Harris v. City of Bisbee. 219 Ariz. 36, 192 P. 3d 162.

<sup>4</sup> General Counsel Opinion dated November 26, 1996.

- (8) Those sheets circulated by a circulator who has been convicted of petition signature fraud under A.R.S. § 19-119.01.
  - (9) Those sheets on which the circulator is required to be registered with the Secretary of State pursuant to A.R.S. § 19-118 and the circulator is not properly registered at the time the petitions were circulated.
- B. After completing the above steps, remove the following signatures that are not eligible for verification by marking an "SS" in red ink in the margin to the right of the signature line:
- (1) If the signature of the qualified elector is missing.
  - (2) If the residence address or the description of residence location is missing.
  - (3) If the date on which the petitioner signed is missing. If the date the petitioner signed is before the date that the statement of organization was filed for the political committee which is filing the petition or if the date on which the petitioner signed is after the date on which the affidavit was completed by the circulator and notarized.
  - (4) Signatures in excess of the fifteen signatures permitted per petition.
  - (5) Signatures withdrawn pursuant to A.R.S. § 19-113.
  - (6) Signatures for which the clerk determines that the petition circulator has printed the elector's first and last names or other information in violation of A.R.S. § 19-112.
- C. After the removal of petition sheets and signatures, count the number of signatures for verification on the remaining petition sheets and note that number in the upper right-hand corner of the face of each petition sheet.
- D. Number the remaining petition sheets that were not previously removed and that contain signatures eligible for verification in consecutive order on the front side of each petition sheet in the upper left-hand corner.
- E. Count all remaining petition sheets and signatures not previously removed and issue a [receipt](#) to the applicant of this total number eligible for verification.
4. Random Sample. If the total number of signatures for verification after completing the steps above equals or exceeds the minimum required, the clerk, during the same twenty day period shall select, at random, five percent of the total signatures for verification by the county recorder. The random sample of signatures to be verified shall be drawn in such a manner that every signature eligible for verification has an equal chance of being included in the sample. (The Secretary of State's office has a program which can be used to make the random sample.) The random sample produced shall identify each signature selected by petition page and line number. The signatures selected shall be marked according to the following procedure:
- A. Using red ink, mark the selected signature by circling the line number and drawing a line from the base of the circle extending into the left margin.
  - B. If a signature line selected for the random sample is found to be blank or was removed from the verification process and is marked with an "SS," then the next line down, even if that requires going to the next petition sheet in sequence, on which an eligible signature appears shall be selected as a substitute if that line has not already been selected for the random sample. If the next eligible line is already being used in the random sample, the clerk shall proceed back up the page from the signature line originally selected for the random sample to the next previous signature line eligible for verification. If that line is already being used in the random sample, the clerk shall continue moving down the page or to the next page from the line originally selected for the random sample and shall select the next eligible signature as its substitute for the random sample. The clerk shall use this process of alternately moving forward and backward until a signature eligible for verification and not already included in the random sample can be selected and substituted.

5. Transmittal to County. After the selection of the random sample and the marking of the signatures selected on the original petition sheets, the clerk shall make a copy of the front of each signature sheet on which a signature included in the random sample appears. The clerk shall clearly identify those signatures marked for verification by color highlighting or other similar method and transmit the facsimile sheets by personal delivery or certified mail to the county recorder.
6. County Recorder Certification. Within 15 days, excluding Saturdays, Sundays and legal holidays, after receiving the facsimile signature sheets, the county recorder shall determine which signatures of individuals whose names were transmitted shall be disqualified for any of the following reasons:
  - A. No residence address or description of residence location is provided.
  - B. No date of signing is provided.
  - C. The signature is illegible and the signer is otherwise unidentifiable.
  - D. The address provided is illegible or nonexistent.
  - E. The individual was not a qualified elector on the date of signing the petition.
  - F. The individual was a registered voter but was not at least eighteen years of age on the date of signing the petition or affidavit.
  - G. The signature was disqualified after comparison with the signature on the affidavit of registration.
  - H. If a petitioner signed more than once, all but one otherwise valid signature shall be disqualified.
  - I. If a petition signer's signature is determined to be invalid after a comparison is made between the signature and handwriting on the petition and the petition signer's voter registration file.
  - J. If the person circulating the petition was a justice of the peace or a county recorder at the time the person circulated the petition.
  - K. For the same reasons any signatures or entire petition sheets could have been removed by the clerk pursuant to A.R.S. §19-121.01, subsection A, paragraph 1 or 3.

Within the same time period, the county recorder must certify to the clerk the following: The name of any individual whose signature was included in the random sample and disqualified by the county recorder together with the petition page and line number of the disqualified signature and the total number of signatures selected for the random sample and transmitted to the county recorder for verification and the total number of random sample signatures disqualified.

At the time of this certification, the county recorder will return the documents to the clerk. The form for the certification will be prescribed by the Secretary of State.<sup>1</sup>

7. If an elector wishes to challenge the number of signatures certified by the county recorder, the elector must commence an action in superior court within five calendar days of when the county recorder notifies the clerk of the number of certified signatures received. The superior court decision may be appealed to the state supreme court.
8. Signature Tally. Within 72 hours, again excluding Saturday, Sunday or legal holidays, after receiving the certification and signature sheets from the county recorder, the clerk will determine the total number of valid signatures by subtracting from the total eligible signatures in the following order:<sup>2</sup>
  - A. All signatures removed pursuant to A.R.S. § 19-121.01 (A) (1).<sup>3</sup>
  - B. All signatures that were found ineligible by the county recorder and that were not subtracted above.

<sup>1</sup> A.R.S. § 19-121.02 (C).

<sup>2</sup> A.R.S. § 19-121.04 (A) and 19-114.

<sup>3</sup> A.R.S. § 19-121.01 and 19-141. *Van Riper v. Threadgill*, 183 Ariz. 580, 905 P. 2d 589.

- C. After determining the percentage of all signatures found to be invalid in the random sample, subtract a like percentage from those signatures remaining after the above subtractions.

9. Placement on Ballot.

If the number of signatures on the remaining petitions, after the subtraction process, equals or exceeds 100% of the minimum number of signatures, then the clerk must issue a receipt to the organization or person submitting the petition. The rest of the signatures need not be verified. This receipt should be in the form specified in A.R.S. § 19-121.04 (B). The city or town clerk then notifies the mayor that there are adequate signatures to place the initiated or referred measure on the ballot.<sup>1</sup>

10. Failure to Qualify. If the number of valid signatures, as projected from the random sample, is less than the minimum required, or if the actual number of signatures on the remaining sheets after any subtraction from the random sample is completed or after certification fails to equal or exceed the minimum number required, then the clerk returns the original signature sheets to the persons or organization that submitted them after the conclusion of any litigation regarding the measure or until the time for any such litigation has expired. In addition, a certified statement should be presented to the person or organization with the information provided in A.R.S. § 19-121.04 (C). Also, a facsimile of the certification of the county recorder must accompany the signature sheets returned to the person or organization that submitted them.

11. Payment to County. The city or town has to pay the county recorder for counting the signatures at a maximum rate of 50 cents per signature.<sup>2</sup>

## PETITION SIGNATURE FRAUD

There are special penalties for petition signature fraud which apply to initiative, referendum and recall petitions.<sup>3</sup> Under this law, a person commits petition signature fraud if the person does either of the following with the intent to defraud:

1. Intentionally collects for filing petition signature sheets with the knowledge that the person whose name appears on the signature sheet did not actually sign the petition.
2. Uses any fraudulent means, method, trick, device or artifice to obtain signatures on a petition.

The penalty for violation is a class 1 misdemeanor, except that a person who engages or participates in a "pattern of petition signature fraud" is guilty of a class 4 felony and shall be prohibited from participating for five years in any election, initiative, referendum or recall campaign. "Pattern of petition signature fraud" means that the person employs or subcontracts with persons to obtain signatures and at least five of the employees or subcontractor's employees have been convicted of a violation of this law for one or more elections or recall campaigns in an election cycle. The Secretary of State is to maintain a list of persons who have been convicted of participating in a pattern of petition signature fraud and who are barred from participating in any election, initiative, referendum or recall campaign for five years from the date of conviction and include the list on the Secretary of State's website.

A person paid by a political committee to employ or subcontract with persons who fraudulently obtain petition signatures or who obtain petition signatures through other unlawful means can exonerate themselves from a violation if they report the alleged unlawful or fraudulent signature collection to the filing officer and refuse to file the suspected unlawful or fraudulent signatures.

---

<sup>1</sup> A.R.S. § 19-121.04. Save Our Public Lands Coalition v. Stover, 135 Ariz. 461, 662 P.2d 136.

<sup>2</sup> A.R.S. § 19-121.05.

<sup>3</sup> A.R.S. § 19-119.01.

## CAMPAIGN EXPENSES

A federal court decision in December 2014 found that the definition of political committee in the campaign finance law is vague, overbroad and consequently unconstitutional.<sup>1</sup> Following the court decision, the Legislature changed the definition of political committee to a list of committee types.<sup>2</sup>

Any campaign committee that engages in political activity in support of or in opposition to an initiative, referendum or other proposition (such as a bond election) appearing on the ballot and collects or expends money or valuable things in connection with such activity must file a political committee Statement of Organization and campaign finance reports or a \$500 threshold exemption statement.<sup>3</sup> The statement of organization or a threshold exemption statement must be filed at the same time as the application for an initiative or referendum petition. The name of the campaign committee on the Statement of Organization must include the official petition serial number as well as whether the committee is in support or opposition of the measure or the recall.

The rules differ for recall elections. A committee sponsoring a recall must register as a political committee - the \$500 threshold exemption does not apply.<sup>4</sup>

If the initiative or referendum qualifies for placement on the ballot, the clerk is to amend the name of the committee by attaching to the statement of organization the ballot proposition number as a substitute for the official serial number in the name of the political committee and then notify the committee and the public of the change.<sup>5</sup> The filing deadlines specified in Chapter 2 also apply to special elections. The political committee statement of organization or the \$500 threshold exemption statement must be filed before any contributions or expenditures are made and before any petitions are circulated.

There is a special exemption from registration as a political committee if a person is a religious assembly or institution that does not spend a substantial amount of time or assets on influencing any federal, state or local legislation, referendum, initiative or constitutional amendment.<sup>6</sup> Substantial amount of time or assets carries the same meaning as specified in Section 501 C (3) of the Internal Revenue Code.

For campaign committees that file a \$500 threshold exemption statement, the committee and the treasurer are required to maintain a record of all contributions received and expenditures made by the committee.<sup>7</sup> This information need not be filed except in the case of a committee that exceeds the \$500 threshold. In that case, the committee must file an amended statement of organization and comply with the reporting requirements specified for regular political committees.

Committees that complete the election as a \$500 threshold committee are required to file a termination statement and dispose of any surplus monies under the same rules that apply to other committees. Failure to file a termination means that the \$500 threshold committee is automatically terminated 90 days after the end of the election and is required to pay a civil penalty of \$100.

There is a special campaign expense reporting requirement for large, last minute contributions received in support of or opposition to any local ballot measure or in support of or opposition to a recall election. If a committee receives, from a single source, a contribution less than 20 days before the election, which exceeds \$2,500 in a city with a population of 100,000 or more or \$500 in a city or town with less than 100,000 in population, then a special notice must be filed with the city/town clerk. The notice must be filed within 24 hours, excluding Saturdays, Sundays and legal holidays, after the contribution is received and include: the name of the contributor; the date the contribution was received and the amount of the contribution. The contribution must also be reported on the post election report. A political committee that violates this reporting requirement is subject to a civil penalty of up to three times the amount improperly reported.<sup>8</sup>

---

<sup>1</sup> Galassini v. Town of Fountain Hills. United States District Court for Arizona. No. CV-11-02097.

<sup>2</sup> A.R.S. § 16-901 (19).

<sup>3</sup> A.R.S. § 16-913.

<sup>4</sup> A.R.S. § 16-902.

<sup>5</sup> A.R.S. § 16-902.01 (G).

<sup>6</sup> A.R.S. § 16-922.

<sup>7</sup> A.R.S. § 16-904.

<sup>8</sup> A.R.S. § 16-914.01.

A notice to the local filing officer is required the first time the committee receives contributions totaling \$10,000 or more; the first time the committee makes expenditures totaling \$10,000 or more; the first time each single source contributor makes cumulative contributions of \$10,000 or more. (In other words, the first \$10,000 received from each single source triggers the special notice requirement. The second \$10,000 from that same source can simply be reported on the campaign finance report and no longer requires the additional notice to the election officer.) The notice must include the identification of the contributors, the dates of receipt and the amounts of the contributions or the amount, recipient and purpose of the expenditures and must be filed with the clerk's office within 24 hours. Again, the time frames exclude Saturdays, Sundays and legal holidays.<sup>1</sup> Contributions subject to the notification requirements of this section are included in the next campaign finance report.

In addition to the above, there is a truth in advertising requirement for certain major contributors to campaigns on ballot propositions, including local initiative and referendum campaigns and recall elections.<sup>2</sup> State law requires that any literature or advertisement to support or oppose a ballot proposition or recall election must disclose the four largest of its major funding sources, unless the funding source is an individual, and if it has fewer than four major funding sources, it must disclose them all. Also, if an out-of-state contributor or group of out-of-state contributors is a major funding source to a political committee then the political committee shall state the contributor is an out-of-state contributor on its literature or advertisement in support of or in opposition to a ballot proposition. Failure to do so could result in a civil penalty of three times the cost of the advertisement. For printed material that is delivered or provided by hand or by mail, the disclosure must be printed clearly and legibly in a conspicuous manner.

The definition of a major funding source is as follows:

Any contributor, other than an individual person, that has made cumulative contributions of either:

1. For a political subdivision with a population of 100,000 persons or more, \$10,000 or more to the political committee in support of or in opposition to a ballot proposition.
2. For a political subdivision with a population of less than 100,000 persons, \$5,000 or more to the political committee in support of or in opposition to a ballot proposition.

All contributors to more than one political committee in support of or opposition to a ballot proposition, whose contributions in cumulative would qualify them as a major funding source, must then be listed as a major funding source. All contributors to more than one political committee in support or opposition of a ballot proposition must disclose the cumulative total of their contributions to each political committee and failure to do so subjects a contributor to a civil penalty of up to three times the amount contributed. Recent changes have made it the responsibility of both the political committee and the contributor to track and report cumulative total contributions. Committees that fail to do so are subject to the same civil penalty as contributors.

Contribution limits do not apply to initiative or referendum or other non-candidate elections.<sup>3</sup>

### **Campaign Finance Reporting**

A Statement of Organization or a \$500 Threshold Exemption Statement must be filed before accepting contributions, making expenditures or distributing or circulating any literature or petitions. However, when calculating whether the \$500 threshold has been reached please note that any deposit or other payment filed with the clerk to pay any portion of the cost of printing an argument in a publicity pamphlet advocating or opposing a ballot measure is not considered an expenditure for the purposes of campaign finance reporting.<sup>4</sup>

---

<sup>1</sup> A.R.S. § 16-914.01.(B).

<sup>2</sup> A.R.S. § 16-912.01.

<sup>3</sup> Attorney General Opinion 87-150.

<sup>4</sup> A.R.S. § 16-901 (9)(e).

If the population of your city or town exceeds 2,500 and your city or town has a website, you must post on the website the statements of organization and campaign finance reports received from all political committees supporting or opposing any city or town initiative, referendum, recall, approval of bonds or other ballot measure including any candidates who have filed a \$500 Threshold Exemption Statement.<sup>1</sup> If your city or town does not have a website, you may post the information on the League's website.

Penalties apply to failure to report. The procedures outlined for candidates in Chapter II of this manual apply to committees formed to support or oppose referendums or initiatives and other ballot measures.<sup>2</sup>

## PUBLICITY PAMPHLET

Pamphlets must be distributed to every household containing a registered voter in the city or town, so far as possible, by mail before the earliest date for receipt by registered voters of any requested early ballot for the election at which the measures are to be voted on. If the pamphlet is not mailed before the earliest date for receipt of a requested early ballot, the officer in charge of elections shall provide a notice with the early ballots stating when the pamphlets will be mailed and where and when the pamphlets may be accessed or viewed. Pamphlets are to be mailed or carried not less than ten days before the election at which an initiative or referendum measure is to be decided.<sup>3</sup> These pamphlets should contain the wording of the initiative or referendum and arguments submitted for and against the measures.

For both initiated and referred measures, arguments favoring or opposing the measure must be filed with the clerk not less than 90 days before the election.<sup>4</sup> Arguments filed for inclusion in the publicity pamphlet must include a notarized signature of each person sponsoring the argument; for organizations submitting arguments the notarized signatures of two executive officers and for political committees submitting arguments the notarized signatures of the committee's chairman or treasurer must be included.<sup>5</sup> Arguments are limited to 300 words in length.

## INITIATIVE AND REFERENDUM BALLOTS

There are very specific requirements in State law for the form of the ballot when initiative or referendum questions are included on the ballot. The clerk must prepare and have printed on the ballot immediately below the number and official title of each measure a descriptive title containing a summary of the principal provisions of the measure, not to exceed fifty words. (The official title of an initiative is the title on the initiative as circulated.) The number of each measure must be printed in at least 12 point reverse type and must be printed this way each time it appears on the ballot. If a city or town measure will appear on a state ballot, it will be numbered beginning with the number 400. No specific numbering system is required if the measure is to appear on a stand-alone city/town ballot.

Immediately following the descriptive title and summary of each measure, the following must be printed:

A "Yes" vote shall have the effect of:

A "No" vote shall have the effect of:

The blank spaces must be filled with a brief phrase stating the essential change being proposed to existing law. Opposite these phrases, the number of the measure must be printed in at least 12 point reverse type. Below the number of each measure and opposite each phrase, space must be provided for printing the corresponding words "yes" and "no" in a space in which the elector may make his mark. In the case of a referendum, a "yes" vote must have the effect of approving the ordinance or resolution being referred.<sup>6</sup>

The alternative to printing the official and descriptive titles or the full text of each measure on the ballot is as follows: An election officer may print all of the following: the number of the measure in reverse type and at least twelve-point type; the designation of the measure as prescribed in A.R.S. §19-125 (C), (for example, "referendum ordered by petition of the people."), followed by the words "relating to..." and inserting the subject; and the statutorily prescribed method to describe the effect of a "yes" vote and a "no" vote. When using this alternative, the ballot shall direct voters to the full text of the official and descriptive titles on the sample ballot at the polling place.

<sup>1</sup> A.R.S. § 16-916 (A)(3).

<sup>2</sup> A.R.S. § 16-918. City of Sierra Vista v. Sierra Vista Wards System Voting Project. 229 Ariz. 519, 278 P. 3d 297 (2012).

<sup>3</sup> A.R.S. § 19-141.

<sup>4</sup> A.R.S. § 19-141 (C).

<sup>5</sup> A.R.S. § 19-124 (A).

<sup>6</sup> A.R.S. § 19-125.

## CHALLENGE OF INITIATIVE OR REFERENDUM MEASURES<sup>1</sup>

If a local ordinance or charter provision is passed by initiative or through the referendum process and its constitutionality, legality or application is challenged in court, the official initiative proponent whether an individual, a group of individuals or an organization, or the mayor or councilmember who was the prime sponsor of the ordinance subject to referendum, has the right to intervene as a party to defend the law and is deemed to have proper standing in the matter. The only objection that may be raised to a motion to intervene is that the proposed intervenor does not have a good faith intention to defend the law. Any party or proposed intervenor may raise this objection. A party who intervenes to defend a law pursuant to this section is not liable for attorney fees or costs of any party who is challenging the constitutionality, legality or application of the law.

## RECALL ELECTIONS

Every public officer holding an elected office for at least six months, either by election or appointment, may be removed from office before the end of his term by means of a recall procedure. The six months in which a candidate may not be recalled are the first six months of the first term of office. In other words, if a candidate is re-elected to the same office, he could be recalled at any time within the second term.<sup>2</sup> The recall process is now subject to strict compliance with constitutional and statutory requirements.<sup>3</sup> The method of securing a recall is as follows:<sup>4</sup>

1. The person or organization intending to file a recall petition must, prior to circulating the petitions, submit an application to the clerk with the following information:
  - A. Name and address of individual or, if organization, name of the organization and names and titles of its officers.
  - B. Intention to circulate and submit recall petition.
  - C. Text of the statement setting forth the reasons for the recall.
  - D. Request for issuance of an official number to appear on all petitions.

At the same time as filing the application, a political statement of organization must be filed by the sponsoring group.<sup>5</sup> The ability to file a \$500 threshold exemption statement does not apply to a person or group filing an application for a recall.

2. We recommend that the clerk have a pre-prepared packet for distribution for an individual or group seeking to circulate a recall petition. A model [Recall Packet](#) is included in this manual. Once the election has been called, the clerk should provide any political committees who have filed a Statement of Organization for the recall or any other election with a copy of campaign finance report forms with the cover sheet containing the proper filing dates.<sup>6</sup> The forms and cover sheets are included in the model Recall Packet.
3. After receiving the application, the clerk must assign a number to the applicant. This number must be on each copy of the recall petition located in the lower right-hand corner on each side of each signature sheet. The petition must also include a statement of not more than 200 words explaining the reasons for the recall.<sup>7</sup>
4. The clerk must mark the application with an official date and time of receipt and this becomes the official copy of the text of the recall. If there are any changes to the statement after this point in time, the applicant must begin a new process and any signatures already gathered are invalid.<sup>8</sup>

---

<sup>1</sup> A.R.S. § 12-921.

<sup>2</sup> Attorney General Opinion, 81-064 and A.R.S. § 19-202. See also General Counsel Opinions dated January 17, 1983 and April 13, 1990.

<sup>3</sup> A.R.S. § 19-201.01.

<sup>4</sup> Ariz. Const., Art. VIII, Part 1, Sec. 1, and A.R.S. § 19-201 thru 19-217.

<sup>5</sup> A.R.S. § 19-202.

<sup>6</sup> Attorney General Opinion I11-003.

<sup>7</sup> A.R.S. § 19-203.

<sup>8</sup> A.R.S. § 19-202.01

5. The petition must be signed by qualified electors of the community. When the recall is for a member of the council who is elected at large, the number of signatures needed for the recall petition must be calculated according to the following procedure established by a 1979 court case (Johnson v. Maehling, 123 Arizona 15, 597 P2d 1). Add together the votes for each of the candidates cast at the last preceding general election for the office which is subject to recall even if the person being recalled was not elected at that election. The result is then divided by the number of offices to be filled at that election. This number is then multiplied by 25%.<sup>1</sup>

For example, as in the illustration below, add together the votes cast for each of the candidates - X, Y and Z. The votes cast for each of these candidates must then be divided by the two council seats filled at that election. The remainder is then multiplied by 25%, to give you a minimum of 100 signatures which must be collected for the recall petition.

$$\begin{array}{r}
 \text{Candidate X receives} \quad 250 \text{ votes} \\
 \text{Candidate Y receives} \quad 350 \text{ votes} \\
 \text{Candidate Z receives} \quad \underline{200} \text{ votes} \\
 \qquad \qquad \qquad 800 \text{ votes} \\
 \qquad \qquad \qquad \div \quad \underline{2} \text{ council seats} \\
 \qquad \qquad \qquad = 400 \\
 \qquad \qquad \qquad \times \quad \underline{.25} \\
 \qquad \qquad \qquad 100 \text{ signatures required for the recall petition}
 \end{array}$$

When the person being recalled is the mayor or a councilmember elected by district, simply calculate what is 25% of the vote cast for that office at the last general election. If you have not held a general election for a number of years, i.e. everyone has been elected at the primary, you should discuss with your attorney which election to use to calculate the number of signatures required.

6. The petitions must be filed with the clerk within 120 days after submission of the application explained in paragraph 1 above. (Although it is not required to issue a [receipt for recall petitions](#), it may be useful to do so for your records.)
7. State law bars the circulating of recall petitions by a county recorder or justice of the peace. Any petitions circulated by such a person are void.<sup>2</sup> Out of state circulators must register with the Secretary of State.<sup>3</sup>
8. Within ten days after receipt of the petitions, the clerk must follow the same steps as outlined for initial review of initiative and referendum petitions. If the total number of signatures eligible for verification equals or exceeds the minimum number required, the clerk shall make a copy of the front of each signature sheet on which any signature eligible for verification appears. On recall petitions, each signature is checked. The clerk must certify the number of sheets and signatures that are being transmitted to the county recorder's officer and retain a copy of the certification.<sup>4</sup> If there are not sufficient signatures, the clerk returns the petitions to the person or organization that submitted them.
9. The county recorder has 60 days after receipt of the signature sheets to check the signatures or affidavits and report back to the clerk. The recorder must certify the number of valid signatures and return the signature sheets to the clerk obtaining a dated, signed receipt therefor.
10. After return of the petitions from the county, the clerk has 5 days excluding Saturday, Sunday and legal holidays to determine whether or not there are sufficient, verified signatures to qualify for the recall. If there are sufficient signatures, the clerk must officially file the petition and notify the mayor that a recall will be placed on the ballot as provided by law.<sup>5</sup> If there are not sufficient signatures, the petitions are returned to those submitting them along with a notice of why the petitions were not sufficient.

<sup>1</sup> Johnson v. Maehling, 123 Ariz. 15, 597 P2d 1.

<sup>2</sup> A.R.S. § 19-205.02.

<sup>3</sup> Chapter 285 Laws of 2015

<sup>4</sup> A.R.S. § 19-208.01.

<sup>5</sup> A.R.S. § 19-208.03.

11. Any person who has signed a recall petition may withdraw his signature not later than 5:00 p.m. on the date the petitions are actually submitted to the clerk. Any person may withdraw his signature by signing a simple statement of intent to withdraw his name at the office of the clerk. Also, a person may withdraw his signature by mailing a signed, notarized statement of intent to withdraw to the clerk. Withdrawn signatures and crossed-out signatures may not be counted in determining the legal sufficiency of the petition.<sup>1</sup>
12. If an elector wishes to challenge the number of signatures certified by the county recorder, the elector must commence an action in superior court within ten calendar days of when the clerk notifies the mayor that a recall has qualified and that an election is called. The superior court decision may be appealed to the state supreme court.
13. The clerk must within forty-eight hours after the official filing, excluding Saturdays, Sundays and other legal holidays, notify in writing the officer that a recall petition has been filed against him. The notice must state that a recall petition has been filed, the grounds for the petition and information concerning the officer's right to defend their conduct in writing. The officer then has ten days in which to file a statement of not more than 200 words defending their official conduct. If the officer files such a statement, it is printed on the ballot at the time of the recall election.<sup>2</sup>
14. If the officer does not resign within five days from the date of filing excluding Saturdays, Sundays or other holidays, the city or town council must call an election within fifteen days. The election must be held on the next consolidated election date that is ninety or more days after the call.<sup>3</sup>
15. The officer's name automatically appears on the ballot at the recall election if he does not resign within the five-day period or otherwise request in writing that his name not appear.<sup>4</sup> Other candidates' names may appear on the ballot if they have been nominated by means of a nomination petition containing signatures of qualified electors of at least 2% of the total votes cast for all candidates for that office in the last election for that office.<sup>5</sup> To sign the nomination petition, a qualified elector must reside in the same electoral district as the person being recalled. Filing deadlines for the nomination petition for a recall election differ from the regular election deadlines and must be filed not more than 90 nor less than 60 days prior to the date of the recall election.<sup>6</sup> The form of the nomination petition is found in A.R.S. § 19-212 and is included in the League's recall packet. The statements on the recall petition and the officer's statement also appear on the ballot.

The recall election board is constituted in the same manner as a regular election board. One inspector, two judges and two clerks are appointed by the city or town clerk.<sup>7</sup> The election is conducted in the same manner as prescribed for the general election.<sup>8</sup> The candidate who receives the largest number of votes is declared elected for the remainder of the unexpired term on his qualification for the office and on completion of the canvass. If the incumbent receives the largest number of votes, he continues in office. If the incumbent does not receive the largest number of votes, he will remain in office until the completion of the canvass of votes.<sup>9</sup> There appears to be no limitation on the number of persons who can file nomination petitions against the incumbent. The expenses of one election are the responsibility of the city or town. The expense of a subsequent election against an officer during the term in which the first recall election was held must be paid for by the petitioners signing the petition. The funds necessary to pay for the election must be paid to the clerk at the time of application for a subsequent recall petition.<sup>10</sup>

---

<sup>1</sup> A.R.S. § 19-113.

<sup>2</sup> A.R.S. § 19-207.

<sup>3</sup> A.R.S. § 19-209 and Ariz. Const., Art. VIII, Part 1, Sec. 3.

<sup>4</sup> *Abbey v. Green*, 28 Ariz. 53, 235 Pac. 150, and A.R.S. § 19-212.

<sup>5</sup> A.R.S. § 19-212.

<sup>6</sup> A.R.S. § 19-212 (F).

<sup>7</sup> A.R.S. § 19-214 (A) and (B).

<sup>8</sup> A.R.S. § 19-215.

<sup>9</sup> A.R.S. § 19-216.

<sup>10</sup> A.R.S. § 19-202 and *Arizona City Sanitary District v. Hon. Robert Carter Olson*, 224 Ariz. 330, 230 P.3d 713.

Following are some points that should be considered when involved in a recall election:

1. The only offices that are subject to recall are those filled by direct election of the qualified electors. In effect, this means that a mayor may not be directly recalled as mayor unless he is a directly elected mayor. If a mayor who is not directly elected is to be recalled, he must be recalled as a councilmember rather than as mayor.<sup>1</sup> Appointed offices are not subject to recall; however, a person appointed to an elected office is subject to recall. Also, it is important to remember that a recall petition cannot be circulated against any officer in the first six months of his first term of office.
2. If more than one member of the council is to be recalled, separate recall petitions for each officer are required. In other words, if three members of the council are facing recall, three separate petitions must be filed.<sup>2</sup>
3. If recall petitions are filed against the elected official and he chooses to stay in office and no one else files nomination petitions, the election must be held because of the possibility of write-in votes.
4. The elected official subject to recall shall be declared the winner if the recall vote ends in a tie.
5. The person filing a nomination paper for a recall election must specify which member of the council they will oppose in the recall election if more than one official will be subject to recall in the election.<sup>3</sup>
6. Particularly when there is more than one officer to be recalled, your city or town attorney should be consulted as to how many signatures will be needed on the recall petitions.
7. Campaign finance laws apply to recall elections.

## BOND ELECTIONS

In Arizona, cities and towns may issue four principal types of bonds: general obligation bonds, revenue bonds, street and highway improvement bonds and special improvement district bonds. Note: The issuance of bonds is a complicated financial and legal undertaking. The procedures outlined in this section are for general information only. Qualified bond counsel should be consulted before proceeding with any bond election.

### General Obligation Bonds

There are two categories of general obligation bonds based on the allowable bonded indebtedness for certain purposes established by the State Constitution.

#### General Purpose

The Arizona Constitution provides that the bonded indebtedness of any city or town for general municipal purposes may not exceed six percent of the assessed valuation of the taxable property in that city or town.<sup>4</sup> Such bonds are ordinarily retired from property tax and general fund monies. These bonds are referred to as "general obligation" or "full faith and credit" bonds, because they are guaranteed by the full taxing power of the municipal governments. In other words, the real property of the city or town is pledged as collateral to retire the bonds.

#### Public Utility and Open Space

In addition to the six percent limitation for general purpose bonds, cities and towns may issue bonds up to an additional twenty percent of the assessed valuation for supplying such city or town with water, artificial light or sewers, when the works for supplying such water, light or sewers are or will be owned and controlled by the city or town, and open space, parks, playgrounds and recreational facilities. This means that the total general obligation indebtedness may go as high as twenty-six percent.<sup>5</sup>

All general obligation bonds issued for general purposes, utilities, parks or open space must be approved by a majority of the qualified electors voting thereon at an election held for that purpose.

---

<sup>1</sup> General Counsel Opinion dated August 10, 1988.

<sup>2</sup> General Counsel Opinion dated April 13, 1990.

<sup>3</sup> Attorney General Opinion, 76-240 and A.R.S. § 19-212.

<sup>4</sup> Ariz. Const., Art. IX, Sec. 8.

<sup>5</sup> Ariz. Const., Art. IX, Sec. 8. "Public Utilities" as used here refers only to light, water and sewer.

### Method for Calling Election

An election authorizing bonded indebtedness may be called by the city or town council by passing a resolution. However, a petition presented to the city or town council containing the signatures of fifteen percent of the qualified electors requesting a general obligation bond election automatically requires the council to call such an election.<sup>1</sup> The call for election must state the following items:<sup>2</sup>

- A. The aggregate amount of all bonds.
- B. The maximum rate of interest payable on the bonds.
- C. The minimum and maximum number of years such bonds or any series of bonds are to run from the date of issuance of such bonds or series.
- D. The purposes for which the money derived from the sale of bonds will be expended.
- E. The current outstanding general obligation debt and the constitutional debt limitation of the city or town.

The council must order the election to be held at the regular voting places, and the order must state the object of the election. The bond election may only be held on the November consolidated election date.<sup>3</sup>

### Duties of the Governing Body

The city or town council must ensure that the following actions are accomplished with respect to a general obligation bond election:<sup>4</sup>

- A. Set a deadline to submit arguments for and against the authorization of one or more of the bond propositions at a public meeting and publish the deadline in a newspaper of general circulation in the city or town. The arguments are then published in the informational pamphlet outlined below.
- B. Mail a copy of an informational pamphlet to every household with the city or town that contains a registered voter not less than thirty-five days before the bond election. The pamphlet must contain any submitted arguments for or against the authorization of one or more of the bond propositions as well as information on the:
  - 1. Amount of the bond authorization.
  - 2. Maximum interest rate of the bonds.
  - 3. Estimated debt retirement schedule for the current amount of bonds outstanding, showing both principal and interest payments, the current net assessed valuation as reported by the department of revenue and the current adopted and estimated tax rates. The "net assessed valuation" may include the values used to determine voluntary contributions collected pursuant to Title 9, chapter 4, article 3 (remote municipal property as water source) and Title 48, chapter 1, article 8.
  - 4. Estimated debt retirement schedules for the proposed bond authorization, showing both the estimated principal and interest payments and the estimated average annual tax rate for the proposed bond authorization. There are limits on the projected annual increase in net assessed valuation for this estimate and the one for the debt retirement schedule. (Refer to the established format in A.R.S. § 35-454.)
  - 5. Source of repayment.
  - 6. Estimated issuance costs.

---

<sup>1</sup> A.R.S. § 35-452.

<sup>2</sup> A.R.S. § 35-455.

<sup>3</sup> A.R.S. § 35-453.

<sup>4</sup> A.R.S. § 35-454. See also A.R.S. § 9-826.

7. Estimated tax impact of debt service for the bonds on an owner-occupied residence classified as class three pursuant to A.R.S. § 42-12003, on commercial property classified as class one pursuant to A.R.S. § 42-12001, paragraph 12, and on agricultural or other vacant property classified as class two pursuant to A.R.S. § 42-12002, assuming the net assessed valuation of the property increases annually at the lesser of five percent or fifty percent of the projected total annual increase in net assessed valuation as specified in #4 above remains constant over the term of the bonds using the same average annual tax rate used in #4 above. This shall be stated as:

The tax impact over the term of the bonds on an owner-occupied residence valued by the county assessor at \$250,000 is estimated to be \$\_\_\_ per year for \_\_\_ years, or \$\_\_\_ total cost.

The tax impact over the term of the bonds on commercial property valued by the county assessor at \$1,000,000 is estimated to be \$\_\_\_ per year for \_\_\_ years, or \$\_\_\_ total cost.

The tax impact over the term of the bonds on agricultural or other vacant property valued by the county assessor at \$100,000 is estimated to be \$\_\_\_ per year for \_\_\_ years, or \$\_\_\_ total cost.

8. In bold faced type, estimated total cost of the proposed bond authorization, including principal and interest.
  9. Current outstanding general obligation debt and constitutional debt limitation.
  10. Purpose for which the bonds are to be issued and, if applicable, in bold faced type, that the amount of the proposed bond authorization combined with the current outstanding debt exceeds the political subdivision's constitutional debt limit.
  11. Polling location for the addressee.
  12. Hours during the day when the polls will be open.
  13. Pro and con arguments as submitted.
- C. Submit a copy of the informational pamphlet to the department of revenue within thirty days after the bond election. The department of revenue will maintain copies of the pamphlets.
  - D. The election conforms to the general election laws.
  - E. The returns are made to the council within twelve days after the election.
  - F. The council meets within twenty days after election day and canvasses and certifies the vote.
  - G. A certificate is filed with the county recorder, giving the purpose of the election, the total number of votes cast and the total number of votes for and against creating the indebtedness, and stating that the indebtedness has been ordered by the council.
  - H. Bond counsel fees, financial advisory fees, printing costs and paying agent and registrar fees must be paid from either the bonded amount authorized by the voters or current operating funds. Bond election expenses must be paid from current operating funds.

- I. For any proposed general obligation bond authorization where the principal and interest will be paid by a levy of property taxes, the ballot shall contain the phrase "the issuance of these bonds will result in a property tax increase sufficient to pay the annual debt service on bonds". Any written information provided by the political subdivision pertaining to the bond election shall include financial information showing the estimated average tax rate for the proposed bond authorization. If the bonds are to be repaid with secondary property taxes, the ballot shall contain the words "bond approval, yes" and "bond approval, no", and the voter shall signify the voter's desired choice. The ballot shall also contain the following statement:

A "YES" vote shall authorize the \_\_\_\_ governing body to issue and sell \$\_\_\_\_ of \_\_\_\_ bonds of the city/town to be repaid with secondary property taxes.

A "NO" vote shall not authorize the \_\_\_\_ governing body to issue and sell such bonds of the city/town.

If the city or town intends to use revenues other than property taxes to pay the debt on proposed general obligation bonds, the ballot shall contain the phrase "the issuance of these bonds will result in an annual levy of property taxes sufficient to pay the debt on the bonds, unless the governing body provides for payment from other sources".

- J. Any written information provided by the political subdivision pertaining to the bond election is required to include financial information showing the estimated average tax rate for the proposed bond authorization.

(These same procedures apply when issuing any bonds where property tax is pledged even if as a secondary revenue source.)

Failure of any one or more electors to receive the informational pamphlet will not be grounds to invalidate the election. Variations between the estimates required to be in the pamphlet and the actual debt retirement schedule, issuance costs and tax rates will not invalidate the election or the bonds.

### **Revenue Bonds (Public Utility Purposes)**

In addition to general obligation bonds for public utility purposes, cities and towns may issue revenue bonds for "utility undertakings". Municipal utility undertakings have been defined to include: electric light or power; water; storm water; sewer; gas; common carriers of passengers; garbage or rubbish plant or system, including but not limited to disposal, treatment or reduction plants, buildings, incinerators, dams or reservoirs. In addition, airport buildings or other airport facilities and off-street parking structures for motor vehicles. For cities and towns with a population of 75,000 or less, municipal undertakings also include swimming pools, parks, playgrounds, municipal golf courses and ball parks have been classified as utility undertakings for bonding purposes.<sup>1</sup>

The bonds for municipal utility undertakings are commonly referred to as revenue bonds because the bonds finance various facilities which produce revenues, such as swimming pools or water and sewer systems. Revenue bonds are usually secured by the revenues of the facility for which they were issued; and if these revenues are not sufficient to cover repayment of the bonds, the related governmental unit is not obligated to provide tax funds for repayment. Because these bonds are not tax secured, they represent a somewhat greater risk for the investor than do general obligation bonds; therefore, they often must bear a higher interest rate than would general obligation securities.

Although these bonds are not subject to the six percent and twenty percent limitations of general obligation bonds, there are certain statutory requirements which revenue bonds must meet. For example, revenue bond issues must be approved by a majority of the qualified electors voting at an election held for that purpose; they must mature within 30 years of the date of issuance; they may not bear interest in excess of the maximum rate set forth in the resolution calling the election; and they may not be sold at less than par.<sup>2</sup>

<sup>1</sup> A.R.S. § 9-521 and 9-521.01.

<sup>2</sup> A.R.S. § 9-521 thru 9-540.

A city or town desiring to issue municipal bonds for the financing of a utility undertaking must adopt, through its governing body, a resolution for an election concerning the issuance of these bonds. The resolution must state the following:<sup>1</sup>

1. Maximum amount of the bonds.
2. Purpose for which the bonds are to be issued.
3. Maximum rate of interest that the bonds will bear.
4. A brief concise statement, which need not include any detail other than the mere statement of the facts, showing that the bonds will be payable solely from revenues. Additional information is required if the bonds are to be tax secured.
5. The date on which the election is to be held. (The election may only be held on the November consolidated election date.)<sup>2</sup>
6. The places where votes may be cast.
7. The hours between which the polling places will be open.

Notice must be given in a local newspaper not less than fifteen nor more than thirty days prior to the election, stating the intention of the city or town council to hold the same. Only one notice need be given. If there is no local newspaper, the city or town council's resolution must be posted in five conspicuous places not less than fifteen nor more than thirty days prior to the election.<sup>3</sup>

There is no requirement to print, post or distribute sample ballots. The clerk must ensure, however, that a sufficient quantity of ballots are printed for the election. A sufficient quantity is at least ten percent more than the registered number of voters whose names appear on the precinct register.<sup>4</sup>

The provisions of the election law generally apply to utility bond elections.<sup>5</sup> After the election has been conducted, a canvass of the votes is made by the governing body. If they determine that a majority of the qualified electors voting at the election have approved the issuance of the bonds, the council may provide for a bond issue. The determination of the governing body that a majority of the qualified electors voting at the election did, in fact, vote for the bond is conclusive after the date of delivery and the payment for the bonds.<sup>6</sup>

### **Street and Highway Improvement Bonds**

Another type of bond that a municipality may issue is the street and highway improvement bond for the purpose of improving, constructing and reconstructing streets and highways. Acquisition of rights of way and street maintenance is also provided for in this section.<sup>7</sup> The bonds are retired from the city's share of the Highway User Revenue Fund (HURF).

These bonds also must be approved by a majority of the qualified electors voting at an election held for that purpose; they must mature within thirty years of the date of issue; they must bear interest at the rate set by the accepted bid which cannot exceed the maximum rate set forth in the resolution calling the election; and, they may not be sold at less than par.<sup>8</sup> Municipalities may secure this type of bond by pledging their full taxing power if they so desire, but they are not required to do so.<sup>9</sup> There are limits on the maximum amount of bonds that can be issued depending on the jurisdiction's receipt of HURF.<sup>10</sup>

---

<sup>1</sup> A.R.S. § 9-524.

<sup>2</sup> A.R.S. § 16-204.

<sup>3</sup> A.R.S. § 9-524.

<sup>4</sup> A.R.S. § 9-526.

<sup>5</sup> A.R.S. § 9-528.

<sup>6</sup> A.R.S. § 9-527.

<sup>7</sup> A.R.S. § 48-681

<sup>8</sup> A.R.S. § 48-682 and 48-688.

<sup>9</sup> A.R.S. § 48-688 (H).

<sup>10</sup> A.R.S. § 48-689.

A resolution is required calling for the issuance of street or highway bonds. This resolution contains the same information as noted under the previous section on revenue bonds,<sup>1</sup> with the exception that the resolution must contain a brief and concise statement with an irrevocable appropriation providing for the payment of the principal and interest of the bonds from monies to be derived from the Highway User Revenue Fund that not been specifically allocated and pledged for the payment of other indebtedness.<sup>2</sup> The time allotted for notice to the public for registering voters, for closing registration, the form of the ballot, the manner in which the canvass of returns must be conducted, and the body conducting the canvass, besides the application of the election laws to this type of election, are identical to the provisions noted under the section on revenue bonds for financing utility undertakings.<sup>3</sup>

## FRANCHISE ELECTIONS

A franchise is granted to public utility corporations for the purpose of allowing the utility to do business within the city or town.<sup>4</sup> The council may pass a resolution calling for a franchise election at either the next regular election or at a special election called for that purpose. A majority of qualified electors voting at the election is necessary to approve the franchise.

It is customary that the public utility for which the election is being held pay the election costs. It is suggested, however, that the city or town directly pay the election workers and then later be reimbursed for this expense by the public utility paying the election costs. (Public utilities that pay for the election costs with only their own money are not subject to campaign finance reporting laws.)<sup>5</sup>

The proposed franchise must be published in full in a newspaper of general circulation published in the city or town for at least thirty consecutive days prior to the election. See A.R.S. § 39-203 for how to calculate notice.

## DIRECT ELECTION OF MAYOR

General law cities and towns may provide for direct election of the mayor if such a change is first approved by local voters. (See A.R.S. § 9-232.03 and 9-272.01.)<sup>6</sup>

The procedures for implementing this option are as follows:

1. Council passes an ordinance providing that upon approval of the voters the mayor will be directly elected. In this ordinance, the council specifies whether the mayor will serve a two-year or four-year term.
2. The question is presented to the voters at either a special or regular election.
3. Following approval by the voters, the ballot will list two municipal offices - mayor and councilmembers.

Any election to approve this option must take place prior to the date for filing nomination petitions for the primary election if the mayor is to be directly elected at such election. A [sample ordinance and ballot form](#) for such an election should be used.

---

<sup>1</sup> A.R.S. § 9-524.

<sup>2</sup> A.R.S. § 48-683.

<sup>3</sup> A.R.S. § 48-683 thru 48-687.

<sup>4</sup> Ariz. Const., Art. XIII, Section 4; A.R.S. § 9-501 and 9-502.

<sup>5</sup> A.R.S. § 9-502.

<sup>6</sup> General Counsel Opinion dated September 14, 1984.

## FOUR YEAR STAGGERED COUNCIL TERMS

Any city or town council may pass an ordinance or resolution submitting to the voters at a regular or special election the question of whether or not the members of the council should serve four-year overlapping terms.<sup>1</sup> This ordinance or resolution must be passed in time to permit the inclusion of this question on the sample ballot.

The format of the question as presented on the ballot should appear below the listing of candidates (if any) in substantially the following form:

Shall the common council of the City/Town of \_\_\_\_\_, \_\_\_\_\_  
County, Arizona, have four year staggered terms beginning with the election held in 20\_\_\_\_\_, in accordance  
with Ordinance (Resolution) No. \_\_\_\_\_ .

FOR 4 year staggered terms

AGAINST 4 year staggered terms

When a majority of qualified electors voting at the election approves of the four-year staggered terms, current members of the council will be divided by lot into two classes. The first class, composed of three councilmembers, will hold office until the next regular election. The second class, composed of four members, will hold office until the second regular election. Therefore, at the first regular election held after adoption of this system, three councilmembers will be elected, and at the second regular election, four councilmembers will be elected. Thereafter, members of the council will be elected in classes of three and four at successive, regular elections and will hold office for terms of four years each and until their successors are elected and qualified. The mayor is elected from among the council membership and serves in that capacity for a two-year term.

Note: In the event the common council consists of five members, the first class will consist of two councilmembers and the second class of three.<sup>2</sup>

## CONSOLIDATION OF TOWNS ELECTION

The procedure for consolidation of two towns into one town is specified in A.R.S. § 9-121.

In this section, two prerequisites are set forth for towns considering consolidation:

1. The two incorporated towns must have a common boundary.
2. The towns must be located in a county with a population of less than 150,000.

Given these prerequisites, the common councils of the two incorporated towns may pass resolutions to be filed with the clerk of the Board of Supervisors requesting an election for the purpose of consolidation. Once these resolutions are filed, the next step consists of the Board of Supervisors within sixty days adopting a resolution calling an election for the purpose of consolidation. Not more than 180 days from the date of the resolution passed by the Board of Supervisors, the election must be held.

The publicity requirements include publishing the election resolution in full at least once in a newspaper published in the county no less than fifteen nor more than thirty days prior to the date of election. If there is no newspaper, the resolution can be posted in five conspicuous places in each of the towns not less than fifteen nor more than thirty days prior to the date of the election.

In the election, the ballot must contain the phrases "for the consolidation" and "against consolidation" with the voter indicating a choice by inserting the mark X in the square opposite the appropriate phrase. The ballot must also contain the phrase "if consolidation is approved, choose one of the following as the name of the new proposed town." The voter is allowed one selection. There are no size requirements for the ballot, and sample ballots need not be printed, posted or distributed. The same election procedures used for bond elections apply to a consolidation election.

<sup>1</sup> A.R.S. § 9-272 and 9-232.02.

<sup>2</sup> A.R.S. § 9-232.02.

## TOWN TO CITY ELECTION

The basic requirements for a change from town to city status (see A.R.S. § 9-271 to 9-276) include:

1. The town council must pass a resolution declaring that the town's population numbers 3,000 or more and calling an election at which the qualified electors of the town may vote in favor or against the change in status from town to city.
2. A town wishing to change its status can either call a special election or include this question on the town's primary or general election ballot.
3. A majority of the qualified electors voting at the election must vote in favor of the change.
4. The mayor and council in office at the time of a "change from town to city" election remain in office until their terms are completed. Although the change in name and status is made, all laws currently in force remain in effect as well as other functions of the local government.
5. The major difference between a town and a city is that the latter can adopt a charter.

## CHARTER ELECTIONS

Any city with a population of more than 3,500 inhabitants may elect a board of fourteen freeholders for the purpose of drafting a charter. The method of electing the freeholders and voting on the charter drafted by them is found in A.R.S. Title 9, Chapter 2, Article 5 and in Article XIII of the State Constitution.

### Charter Adoption Procedures

The procedure for home rule charter adoption is a brief and simple one. In essence this procedure must adhere to the following steps:

1. **Preconditions**
  - Must have achieved city status.
  - Population of more than 3,500.
2. **Initial Steps**
  - The council on its own initiative may call an election at any time (either a special or general election).<sup>1</sup>
  - The mayor must call an election within ten days if a petition containing the signatures of qualified electors is presented. The number of names on the petition must be equal to at least 25 percent of the total number of votes cast at the immediately preceding general municipal election.
  - At the election, the voters will decide whether or not a charter should be prepared for the city and elect fourteen people to write the charter.
3. **Date of the Election**

The election must be held not later than thirty days after it is called. The question of adopting a charter can be posed to the voters at either a special or general election. You should keep in mind that the county may require more than a 30 day notice for providing the county registration list.
4. **Questions on Ballot**

The principal question on the ballot can be in several forms:

  - Shall a charter be framed for the government of the City of \_\_\_\_\_?
  - Shall further proceedings toward adoption of a charter be had?
  - Election of a board of 14 freeholders. The names of all those who have qualified to run for the board are listed on the ballot.

---

<sup>1</sup> A.R.S. § 9-281 (B).

#### 5. Who is Eligible to Run for a Board of Freeholders?

- Person must be a qualified elector of the city.
- The name "board of freeholders" would appear to limit those eligible to property owners in the city. However, due to court decisions on such limitations, a city may not limit candidates to property owners.
- Those persons wishing to run for the board of freeholders have been asked by the other cities in such a charter election to file nomination papers and nomination petitions bearing signatures of not less than five percent nor more than 10 percent of the highest vote cast for a city councilmember at the last preceding municipal election. This requirement does not appear in the applicable statutes; however, this may be an effective way to limit the number of people running for the board of freeholders if there is widespread citizen interest. If the city wishes to adopt another procedure for nomination of names to the board of freeholders, it may do so.
- There is no statutory bar to members of the city council running for the board of freeholders.

#### 6. Results of the Election

A majority of the qualified electors voting at the election must vote "yes" on the question of whether or not further proceedings should be made toward adopting a charter. The 14 people running for the board of freeholders who receive the highest number of votes compose the board.

#### 7. Preparing the Charter

- State law specifies that within ninety days after the election the board of freeholders must prepare the charter.<sup>1</sup>
- At least a majority of the members of the board of freeholders must sign the proposed charter and present one copy to the mayor and another to the county recorder.

#### 8. Publication Requirements

The charter must be published in the local newspaper for at least twenty-one days if in a daily paper, or in three consecutive issues if the paper is a weekly. State law also provides that the charter must be published within twenty days after its completion. (See A.R.S. § 39-203 for calculation of this notice.)

#### 9. Charter Adoption Election

- A general or special election must be called not earlier than twenty days nor later than 30 days after final publication of the charter. The consolidated election date statute does not apply to charter elections.
- If a majority of the qualified electors of the city voting at the election approve the proposed charter, it must then be submitted to the Governor for approval. State law specifies that the Governor must approve the charter if it is not in conflict with the Constitution or laws of the State of Arizona.
- Once the Governor has approved the charter, two copies of the charter certified by the mayor, with the seal of the city attached and a certified statement, again with a seal, indicating the outcome of the charter adoption election must be prepared. One of the copies must be filed in the Office of the Secretary of State and the other in the archives of the city after it has been recorded in the county recorder's office.

#### 10. Effect of Charter on Previous Ordinances

All ordinances previously enacted which are in conflict with the newly adopted charter are automatically repealed or suspended.

#### Charter Amendment Election

In addition to the general requirements for holding an election, the following is a list provided by the League's General Counsel of specific action steps involved in a charter amendment election:

1. If an amendment to the charter of a city is proposed by initiative petition, it is filed with the city clerk who must submit it to the voters of the city at the next ensuing election held therein, not less than 120 days after it was presented to the city council.<sup>2</sup>

While no time is specified within which the city clerk must present the petition to the city council, it should be presented as soon as possible after receipt by the city clerk.

<sup>1</sup> A.R.S. § 9-282 (A).

<sup>2</sup> A.R.S. § 19-143 (C).

2. The provisions found in this chapter pertaining to verification of initiative and referendum petitions must be followed with respect to the initiative petition for a charter amendment.<sup>1</sup>
3. The city council may propose and submit to the people amendments to the charter. The council may propose amendments of its own, and it may also propose as amendments to the charter those for which a valid initiative petition has been filed. The council adopts the title and text of the proposed amendments to the charter, and specifies the election at which they are to be voted upon. The council may, if it chooses, order a special election to vote on charter amendments whether proposed by initiative or by the council itself. When the council proposes the amendments, whether they have been initiated by a valid initiative petition or not, the amendments can be voted on at an election held not less than sixty days from the date they were filed with the clerk for submission.<sup>2</sup>
4. The publicity pamphlet provisions contained under the heading "Publicity Pamphlet" in this chapter apply with respect to all charter amendments. You may need to adjust the deadline for submitting arguments if the Council refers amendments to the ballot after the ninety day deadline for arguments.
5. The clerk must prepare and have printed on the ballot immediately below the number and official title of each measure a descriptive title containing a summary of the principal provisions of the measure, not to exceed fifty words. The number of each measure must be printed in at least 12 point reverse type and must be printed this way each time it appears on the ballot. Immediately following the descriptive title and summary of each measure, the following must be printed:

A "Yes" vote shall have the effect of \_\_\_\_\_.

A "No" vote shall have the effect of \_\_\_\_\_.

The blank spaces must be filled with a brief phrase stating the essential change being proposed to existing law. Opposite these phrases, the number of the measure must be printed in at least 12 point reverse type. Below the number of each measure and opposite each phrase, space must be provided for printing the corresponding words "yes" and "no" and a square in which the elector may make his mark.<sup>3</sup>

6. If charter amendments are proposed by the initiative, it is a good practice, if possible, to have the proponents of the amendments concur in the wording contained on the ballot.
7. The amendments are not effective unless approved by a majority of the qualified electors voting thereon and also approved by the Governor in the same manner as the original charter is approved.<sup>4</sup>

Although the practices have varied in charter amendment elections in Arizona cities, the City of Phoenix, in a charter amendment election, determined that a case which pertains to amendments to the State Constitution applies to charter amendments. This case, Kerby v. Luhrs, 44 Arizona 208, requires that questions be stated separately on the ballot in such a way that no question includes two questions where a voter may want to answer one with "yes" and the other with a "no". The city attorney should be consulted prior to preparation of the questions to ensure proper presentation of the amendments.

## SPENDING LIMIT ELECTIONS

On June 3, 1980 the electors of the State approved a tax reform package that among other things placed a new expenditure limitation on cities and towns. The Legislature did, however, include methods for local governments to alter the State imposed limitation or adopt an alternative expenditure limitation. The alteration of the State limitation or the adoption of an alternative limitation include a vote of the local electors. Here are the options open to cities and towns.

---

<sup>1</sup> A.R.S. § 19-141 (D).

<sup>2</sup> A.R.S. § 19-143 (C).

<sup>3</sup> A.R.S. § 19-125.

<sup>4</sup> Ariz. Const., Art. XIII, Sec. 2.

### Home Rule Option (The Alternative Expenditure Limitation)

Any city or town may adopt its own "alternative" expenditure limitation that is free from any ties to the State imposed limitation if a majority of the qualified electors voting on the issue at the city/town regular (either primary or general) election vote in favor of the alternative limitation. In other words, there are no limitations on the form of this alternative limitation. An alternative limitation may be referred to the city/town voters by an affirmative vote of two-thirds of the members of the city/town council, or qualified electors of the city/town may offer an alternative limitation through the initiative process.<sup>1</sup> The League publishes an annual guide to holding a home rule election which includes the forms and reports required.

State law no longer requires the adoption or publication of a call or notice of election. However, we recommend that a call be published (see recommended dates on calendars), including the home rule option proposal as one of the purposes of the election. A simple statement on the home rule proposal will satisfy this requirement, for example:

A proposal to adopt a local alternative expenditure limitation - home rule option will be considered at the City/Town (Primary/General) Election on Tuesday, (month) (day), 20\_\_.

(Una propuesta para adoptar una alternativa sobre el limite del gasto local - una opcion de auto reglamento sera considerada en la/el ciudad/pueblo eleccion (primaria/general) el martes, (mes) (dia), 20\_\_.)

A Spanish language translation is required on all election related notices.

If you decide to publish a call and/or notice of election, it should be published in accordance with A.R.S. § 39-204 which requires publication twice if in a weekly paper or four times if in a daily paper.

The city/town council contemplating an alternative expenditure limitation must hold two public hearings on the proposed action. Notice of these hearings must be published once a week for at least two consecutive weeks in a newspaper of general circulation within the city or town. Immediately following the second hearing, the council must convene in a special meeting and vote on the proposed alternative expenditure limitation. A record of the vote and, if approved, the amount of expenditure in excess of the State limitation and purposes for the excess expenditure must be published in a newspaper of general circulation within the city or town.<sup>2</sup>

At least 60 days prior to the election, and we recommend sooner to accommodate printing the publicity pamphlet prior to early voting, the council or a person or group using the initiative process proposing the alternative expenditure limitation, must submit a detailed analysis and summary analysis and a summary analysis worksheet to the Auditor General for review. Within 15 working days of receiving these reports, the Auditor General must correct any errors or deficiencies in the analysis and summary and provide the council with a copy of each report. No revisions of the analysis or summary can be made after the Auditor General review is complete. The Auditor General may request additional information.<sup>3</sup>

The detailed analysis of the alternative expenditure limitation must contain the following:<sup>4</sup>

1. Specific amounts estimated to be expended in specific areas for a period of four consecutive years.
2. Specific amounts of estimated revenue from each and any source, and any assumptions used in estimating such revenue, for a period of four consecutive years.

Arguments supporting or in opposition to the alternative expenditure limitation must be filed with the city/town clerk not less than 90 days before the election.<sup>5</sup> A copy of the publicity pamphlet must be submitted to the Auditor General prior to the election. Not less than 10 days prior to the election, the clerk must provide to each household within the city or town containing a registered voter, a publicity pamphlet which contains the following:

<sup>1</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 9.

<sup>2</sup> A.R.S. § 41-563.01.

<sup>3</sup> A.R.S. § 41-563.03 (E).

<sup>4</sup> A.R.S. § 41-563.03 (E).

<sup>5</sup> A.R.S. § 19-141 (C).

1. A true copy of the title and text of the measure.
2. The form in which the measure will appear on the ballot, the official title, the descriptive title prepared by the clerk and the number by which it will be designated.
3. Arguments for and against the measure.
4. Date of the election.
5. Polling places and the time such polling places are open.
6. A comparative summary of the estimated total expenditures under the proposed alternative limitation(s) and the State limitation for a period of four consecutive fiscal years, as reviewed by the Auditor General.
7. A comparative summary of the estimated amount of revenues from all sources to be expended under the proposed alternative limitation(s) and the State limitation for a period of four consecutive fiscal years, as reviewed by the Auditor General.
8. A statement that if no alternative expenditure limitation is approved by a majority of the qualified electors voting at such election, the city or town will be subject to the State limitation.

The detailed analysis of the alternative must also be made available to registered voters by the clerk upon voter request.<sup>1</sup>

The ballot used for the election must contain a section comparing the proposed alternative to the State imposed limitation. If only one alternative limitation is offered to the voters, the ballot should be in the form used for initiatives and referendums (A.R.S. § 19-125 for more details on the form for initiative ballots). If there is more than one alternative, the ballot must be in a form that allows electors the opportunity to vote on each proposed alternative expenditure limitation. If more than one alternative is approved, the alternative limitation receiving the highest number of votes will apply to the city or town.<sup>2</sup>

When an alternative expenditure limitation is adopted it will be in effect for four consecutive years. Following the fourth year, the alternative must be "reapproved" or a new alternative may be proposed. In other words, you must repeat the detailed procedure involving the Auditor General, publications, election, etc. every four years whether you are "reaffirming" a previously approved alternative limitation or adopting a new one. If the alternative limitation is not "reaffirmed" or a new one offered and approved, the city or town becomes subject to the State imposed limitation.

After the vote has been canvassed, notice of the outcome of the election must be provided to the Auditor General and to the Economic Estimates Commission (A.R.S. § 41-563.03 F). The address of the Economic Estimates Commission and the Auditor General's Office may be found in the League's publication, "A Guide for Alternative Expenditure Limitations."

If the alternative limitation is defeated by a majority of the qualified electors, no new alternative expenditure limitation may be submitted to the voters for at least two years, and the city or town will be subject to the State limitation.<sup>3</sup>

### **Permanent Adjustment of Expenditure Base Limitation**

Any city or town can permanently adjust its State imposed expenditure limitation base if a majority of the qualified electors voting on the issue at a regular (primary or general) city or town election or the state general election vote in favor of the adjustment. A base adjustment may be referred to the voters of the city or town by an affirmative vote of two-thirds of the members of the council; or qualified electors of the community may propose an adjustment through the initiative process.<sup>4</sup> The League prepares an annual guide for those cities and towns proposing a permanent base adjustment.

---

<sup>1</sup> A.R.S. § 41-563.03 (E).

<sup>2</sup> Arizona Const., Art. IX, Sec. 20, Subsection 9.

<sup>3</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 9.

<sup>4</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 6.

The call of the election should include any proposition, including a base limitation adjustment proposal, as one of the purposes of the election. A simple statement on the base limitation adjustment proposal will satisfy this requirement.

Formerly, a city/town council contemplating the adoption of a permanent base adjustment was required to hold two public hearings on the proposed action, and to publish a record of the vote on the proposed permanent base adjustment. The Auditor General's office has issued an interpretation stating that A.R.S. § 41-563.01 does not apply to permanent base adjustment elections and thus the requirements for hearings and publications in that section are not applicable. However, the city/town council is still required to pass a resolution on the proposed permanent base adjustment in an open meeting, but no record of that vote needs to be published.

At least 60 days prior to a regular election, the council or a person or group using the initiative process proposing the base adjustment must submit a detailed analysis and summary of the adjustment to the Auditor General for review. Within 15 working days of receiving these reports, the Auditor General must correct any errors or deficiencies in the analysis and summary and provide the council with a copy of each report. No revisions of the analysis or summary can be made after the Auditor General review is complete.<sup>1</sup>

The detailed analysis of a proposed base adjustment to the expenditure limitation must contain the following:<sup>2</sup>

1. Specific area or areas in which expenditures are adjusted.
2. Specific amounts of estimated revenue from each and any source, and any assumptions used in estimating such revenue.

Arguments supporting or in opposition to the proposed base adjustment must be filed with the city/town clerk not less than 90 days before the election.<sup>3</sup> Not less than 10 days prior to the election, the council must provide, to each household, within the city or town containing a registered voter, a publicity pamphlet which contains the following:<sup>4</sup>

1. A true copy of the title and text of the measure.
2. The form in which the measure will appear on the ballot, the official title, the descriptive title prepared by the clerk and the number by which it will be designated.
3. Arguments for and against the measure.
4. Date of the election.
5. Polling places and the time such polling places are open.
6. A comparative summary of the proposed adjusted expenditure limitation to the State expenditure limitation, as reviewed by the Auditor General.
7. A summary of the source or sources of estimated revenues that are to be used for financing the adjustment to the expenditure limitation or the source or sources of estimated revenues to be reduced as a result of a downward adjustment, as reviewed by the Auditor General.
8. A statement of the purpose or purposes for which the adjustment to the expenditure limitation is to be made. The detailed analysis of the base adjustment must also be made available to registered voters by the clerk upon voter request.<sup>5</sup>

---

<sup>1</sup> A.R.S. § 41-563.03 (D).

<sup>2</sup> A.R.S. § 41-563.03 (D).

<sup>3</sup> A.R.S. § 19-141 (C).

<sup>4</sup> A.R.S. § 19-141 and 41-563.03 (B).

<sup>5</sup> A.R.S. § 41-563.03 (D).

The ballot used for the election must contain a section stating the impact of the modification. If only one proposed adjustment is offered to the voters, the ballot should be in the form used for initiatives and referendums pursuant to A.R.S. § 19-125. If there is more than one proposed adjustment, the ballot must be in a form that allows electors the opportunity to vote on each base limitation adjustment.<sup>1</sup>

Any approved permanent base limitation adjustment must be used in determining a city or town's expenditure limitation beginning with the fiscal year immediately following the approval and every year thereafter or until the city or town again adopts a new base.

### Emergency and One-Time Overrides

The law provides for an emergency or one-time override of the State imposed expenditure limitation in three cases:<sup>2</sup>

1. In the case of a governor declared emergency.
2. In the case of a local city/town council declared emergency not declared by the governor.
3. In the case of a one-time override for reasons other than a disaster.

A city/town faced with a governor declared man-made or natural disaster can exceed its expenditure limitation by an amount necessitated by the disaster if two-thirds of the members of the council vote in favor of the excess. If the governor declares a situation a disaster, you do not need to take the emergency override to the people for a vote.<sup>3</sup>

A city/town faced with a natural or man-made disaster that is not declared by the governor needs an affirmative vote of 70% of the members of the council to exceed its expenditure limitation by an amount necessitated by the disaster. Further, the council will need to obtain approval for the emergency override from a majority of the qualified electors voting at either a special election (to be held on the third Tuesday in May) or at its next regular election. If the council does not take the issue of the emergency override to the voters or if the voters do not approve the override at the election, the city/town must reduce its budget in the fiscal year following the disaster by the amount of excess expended due to the disaster.<sup>4</sup>

Should a natural or man-made disaster not declared by the governor resulting in excess expenditures occur within 90 days prior to a special or regular election, such expenditures will not be put to a vote of the people until the next subsequent regular or special election.<sup>5</sup>

A city/town may exceed its expenditure limitation by a one-time override for reasons other than disaster. The one-time override can occur if two-thirds of the members of the council and majority of qualified electors voting at either a special election (to be held on the third Tuesday in May) or at a regular election in the fiscal year prior to the fiscal year in which the excess is to occur give their vote of approval for the excess.<sup>6</sup>

A council contemplating an election concerning an emergency not declared by the governor or a non-disaster related one-time override must hold two public hearings on the proposed action. Notice of these hearings must be published once a week for at least two consecutive weeks in a newspaper of general circulation within the city or town. Immediately following the second public hearing, the council must convene in special meeting and vote on the proposed excess expenditure. A record of the vote and, if approved, the purposes of the excess expenditure must be published in a newspaper of general circulation within the city or town.<sup>7</sup>

---

<sup>1</sup> A.R.S. § 41-563.03 (G).

<sup>2</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 2.

<sup>3</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 2 (a).

<sup>4</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 2 (b) and A.R.S. § 41-563.02.

<sup>5</sup> A.R.S. § 41-563.02 (E).

<sup>6</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 2 (c).

<sup>7</sup> A.R.S. § 41-563.01.

A council seeking voter approval for excess expenditures due to an emergency not declared by the governor must provide publicity pamphlets concerning the proposed excess to each household within the community containing a registered voter not less than 10 days nor more than 30 days before the election.<sup>1</sup>

The council seeking a one-time override for reasons other than a disaster must provide arguments for the excess expenditure and must receive arguments against the excess from those opposed to it at least 30 days prior to the election.<sup>2</sup> These arguments must be included in the publicity pamphlet concerning the excess expenditure which must be distributed to each household within the city or town containing a registered voter not less than 10 days nor more than 30 days before the election.<sup>3</sup>

It should be emphasized that if the voters do not approve the excess expenditures, necessitated by a disaster not declared by the governor, the city or town must reduce its budget in the fiscal year following the disaster by the amount of excess expended due to the disaster. This reduction provision does not, however, apply to one-time overrides for reasons other than disaster because the election for such an override is conducted prior to the year in which the excess is to occur.

### CAPITAL PROJECTS ACCUMULATION FUND - ELECTION

A capital projects accumulation fund is an option under the State imposed expenditure limitation. This option is particularly appropriate for communities where the State expenditure limit is sufficient except in the area of capital outlays.

If the voters approve, you may exclude from your limited or "controlled" expenditures, revenues accumulated to pay for certain capital projects. The voters have to approve both the project and the accumulation of revenue. The project can be the purchase of land or the purchase or construction of buildings or improvements.

The only specific reference to establishing a capital projects accumulation fund is in the Constitution.<sup>4</sup> It appears that the notice and hearing requirements in A.R.S. § 41-563.01 do apply as well. Elections for such a fund may be held at either a regular city or town election or a special election. However, in response to one city, we developed a suggested set of procedures. These are composed of general election and spending limit election requirements. The procedures include holding two public hearings, publishing notice prior to the hearings and preparing a publicity pamphlet.

These steps outline a suggested process for adopting a capital projects accumulation fund.

1. Call election.
2. Publish notice of two public hearings once a week for two consecutive weeks prior to the hearings in a newspaper of general circulation.<sup>5</sup>
3. Hold public hearings after publishing the second notice.<sup>6</sup>
4. Vote by the council on the capital projects accumulation fund immediately following the second public hearing.<sup>7</sup>
5. Publish record of the vote and other required information immediately following the council's vote.<sup>8</sup>
6. Receive arguments in support or opposition to be published in the publicity pamphlet for the capital projects accumulation fund not less than 60 days prior to the election.
7. Post sample ballots not less than 10 days prior to the election.

---

<sup>1</sup> A.R.S. § 41-563.02 (A).

<sup>2</sup> A.R.S. § 41-563.02 (B).

<sup>3</sup> A.R.S. § 41-563.02 (A).

<sup>4</sup> Ariz. Const., Art. IX, Sec. 20, Subsection 3 d viii.

<sup>5</sup> A.R.S. § 41-563.01.

<sup>6</sup> A.R.S. § 41-563.01.

<sup>7</sup> A.R.S. § 41-563.01.

<sup>8</sup> A.R.S. § 41-563.01.

8. Distribute publicity pamphlets not less than 10 days prior to the election.
9. Hold election at either a regular or special election.

### **PRIMARY PROPERTY TAX LEVY ESTABLISHED - ELECTION**

To establish a primary property tax, a city or town must present the proposed levy to the voters at an election on the third Tuesday in May. The ballot must state the amount to be raised by primary property taxes in the first year such a tax is imposed. The ballot must also state that this amount will be the base for determining levy limitations for the city or town in subsequent years.<sup>1</sup>

These steps outline the process to initiate a primary property tax.<sup>2</sup>

1. The council passes a resolution ordering the election to be held at the regular voting places. The order must state that the election is to establish a primary property tax and the election must be held not less than thirty nor more than one hundred fifty days from the date of the order.
2. A copy of the order is published in a newspaper for not less than once a week for three successive weeks prior to the day of election.
3. Five copies of the election order are posted in public places at least twelve days before the election.
4. A copy of the order for election is posted in each polling place.
5. A publicity pamphlet which includes an estimate of the tax for a single family residence valued at \$100,000; a commercial property valued at \$250,000 and vacant land valued at \$100,000.<sup>3</sup>
6. The election conforms to the general election laws.
7. The election is held on the third Tuesday in May.
8. The returns are made to the council within twelve days after the election.
9. The council meets within seven days from the twelfth day after the election day and canvasses and certifies the vote.
10. A certificate is filed with the county recorder, giving the purpose of the election, the total number of votes cast and the total number of votes for and against establishing the primary property tax and stating that the tax has been ordered by the council.

If a majority of the qualified electors voting at the election approve the proposed levy amount for primary property taxes, that amount will be the levy for the city or town for the next fiscal year.<sup>4</sup>

### **SALES TAX ADVISORY ELECTION<sup>5</sup>**

There is a special provision allowing cities and towns to hold elections on tax issues. This extends to elections on the transaction privilege tax, sales, use, franchise or other similar tax or fee. The issue can be submitted to the qualified electors of the city or town at any regular or special municipal election, and the city or town may spend public monies to cover the expenses of the election on that issue. A publicity pamphlet is required and must include the amount of the tax increase. The election must be held on one of the four consolidated dates listed at the beginning of this chapter for special elections.<sup>6</sup>

---

<sup>1</sup> A.R.S. § 42-17056 (B).

<sup>2</sup> A.R.S. § 35-453, 35-454 and A.R.S. § 42-17056.

<sup>3</sup> A.R.S. § 9-826.

<sup>4</sup> A.R.S. § 42-17056.

<sup>5</sup> A.R.S. § 42-6006.

<sup>6</sup> A.R.S. § 9-826

**GENERAL PLAN ADOPTION ELECTION<sup>1</sup>**

If your city or town has a population of more than 2,500 but less than 10,000 and the population growth rate of your city or town exceeded an average of 2% per year for the ten year period before the most recent United States decennial census, and any city or town having a population of 10,000 or more persons, shall submit each new general plan to the voters for ratification at the next regularly scheduled municipal election or at a special election scheduled at least 120 days after the council adopts the plan. The election must be held on one of the four consolidated election dates.

A publicity pamphlet must be prepared and include a general description of the plan and its elements. In addition public copies of the plan shall be provided in at least two locations that are easily accessible to the public which may include posting on the your official internet website. If a majority of the qualified electors voting on the proposition approves the new plan, it goes into effect. If a majority of the qualified electors voting on the proposition fails to approve the new plan, the current plan remains in effect until a new plan is approved by the voters. The governing body shall either resubmit the proposed new plan, or revise the new plan, for subsequent submission to the voters at the next regularly scheduled municipal election or at a special election scheduled at least 120 days after the governing body readopts the new or revised new plan. If the voters turn down the plan, the statute requires you to continue to resubmit the plan to voters until it is ratified.

You can find examples of election materials for a general plan adoption election on the League's website in the Resource Library under Resources and Research.

---

<sup>1</sup> A.R.S. § 9-461.06.

**ELECTION CALENDARS  
AND  
REFERENCE MATERIALS**

# **ELECTION CALENDARS**

Click the links below to access the Calendars:

[\*\*2015 Fall Suggested Charter City Council-Mayor Election Calendar\*\*](#)

[\*\*2015 Fall Charter City Council-Mayor Election Table\*\*](#)

[\*\*2016 Spring Suggested Charter City Election Calendar\*\*](#)

[\*\*2016 Spring Charter City Election Table\*\*](#)

[\*\*2016 Fall City/Town Election Calendar\*\*](#)

[\*\*2016 Fall City/Town Election Table\*\*](#)

# GUIDELINES ON COMPLIANCE WITH VOTING RIGHTS ACT

A 2013 U. S. Supreme Court decision determined that the pre-clearance requirements of the Voting Rights Act are no longer enforceable.<sup>1</sup> The responsibility to provide bilingual election materials to assist Spanish language voters and, in certain areas of our State, oral assistance for Indian language voters remains in effect. The following is a guide to compliance with the law as interpreted by the Arizona Attorney General and the U.S. Justice Department.

## ASSISTANCE FOR LANGUAGE MINORITIES

In 1975, Congress passed an amendment to the Voting Rights Act designed to prevent discrimination against "language minorities" in the electoral process. A language minority is defined in the Act as an American Indian, Asian American, Alaskan native or someone of Spanish heritage. The passage of this amendment placed a number of important requirements on city and town elections.

The Department of Justice published a set of "guidelines" which interpreted the 1975 amendment and suggested possible methods of complying with the Act. Based on the law, guidelines and a meeting with Justice Department officials, we have detailed, to the extent possible, the procedures necessary to comply with the language minority amendments.

In Arizona, persons of Spanish heritage and American Indians have been designated as language minorities. *All cities and towns in Arizona are required to provide election materials in Spanish.* In addition to the Spanish language materials, cities and towns in Apache, Coconino, Gila, Graham, Navajo and Pinal counties have to provide oral assistance in languages of the American Indians in those counties.

While the 1975 amendment applies to "political subdivisions" of the State, cities and towns are not specifically mentioned under the definition. The definition of political subdivision reads, ". . . any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish the term shall include any other subdivision of a State which conducts registration for voting." However, Justice Department officials have interpreted the law to mean that all cities and towns in those counties designated by the Department will have to provide election materials to language minorities in their own language. *This means that all cities and towns in the State have to provide Spanish election materials, and those municipalities in Apache, Coconino, Gila, Graham, Navajo and Pinal counties have to provide additional oral assistance in the appropriate American Indian languages.*

## TRANSLATION OF ELECTION MATERIALS

In determining specifically which election materials should be printed in the Spanish language, the general rule of the Justice Department is that all materials printed in English should also be printed in the specified language, Spanish. The materials which should be translated include:

Election Notice	Resolution Designating Polling Places
Nomination Papers and Petitions	75 Foot Election Signs
Candidate Affidavits	Polling Place Signs
Campaign Committee Expense Statements	Voter Instructions (Including Early Instructions)
Candidate Expense Statements	Voter Information Pamphlet
Financial Disclosure Statements	All Ballots (Primary, General, Early, etc.)
City or Town Financial Statement	

---

<sup>1</sup> General Counsel Opinion dated July 12, 2013.

The State Attorney General has issued an opinion (76-1) concerning the applicability of the Voting Rights Act minority language amendments on the preparation of State and county election materials. Summarizing the opinion, the Attorney General says:

1. The affidavit of Voter Registration, the application for Voter Registration for New Resident and the Publicity Pamphlet prepared by the Secretary of State should be available in both English and Spanish.
2. The duty of the Office of Secretary of State extends only to preparing master forms in both languages. The decision to prepare and use a given petition or nomination paper exclusively in English, or just in Spanish, or in both languages rests with the discretion of the individual circulating the form.
3. The Secretary of State should prepare and make available campaign finance statements in both English and Spanish. However, the decision to use the English or Spanish version, or both, of the forms, rests within the discretion of the candidate or campaign organization.
4. The Voting Rights Act amendments expressly provide that covered jurisdictions provide ballots in English and Spanish.

This Attorney General Opinion also discusses methods for the distribution of minority language election materials. We suggest that you review this opinion with your local attorney.

The amount of material necessary to comply with the law will have to be determined by the individual city or town. The minority language materials should be distributed in the same manner as other election materials. An effort should be made to locate community minority group leaders and available demographic information on minority populations to ensure that the materials are distributed in an equitable manner. Indication from Justice Department officials is that a central location or a number of locations where these minority language materials are simply "available" for interested persons will not be considered compliance with the law. An effective method for the distribution of these materials must be provided.

## **ORAL ASSISTANCE**

Arizona cities and towns in Apache, Coconino, Gila, Graham, Navajo and Pinal counties must provide election instructions in American Indian languages which have historically been "unwritten". The Justice Department states that *oral* instructions will have to be provided in these instances and adds that this instruction must take place at all stages of the election process.

The actual method used to comply with the law will again be the responsibility of the individual city or town. The Justice Department realizes that oral instructions cannot possibly take place on a one-to-one basis. It is suggested that Indian community leaders be contacted about persons qualified to administer this type of oral assistance. The Indian leaders may be able to set up a schedule or provide an indication of when meetings are being held to disseminate election information. Also, radio broadcasts in certain parts of Arizona have been used effectively to communicate with the Indian community. Again, a reasonable effort to provide this oral election instruction must be demonstrated to the Justice Department. In addition, oral assistance should be made available at the polling places for Indian voters.

A number of the essential documents in local elections, which should be printed in Spanish, have been translated and included in this manual. These materials are intended only as examples. We suggest careful review by local communities to determine if these translations are appropriate for the Spanish language minority in your community. Since the requirements to comply with these language minority provisions are fairly complex, we suggest directing any legal questions to your city or town attorney.

You may call the Voting Section toll-free at (800) 253-3931 or (202) 307-2767

For more information, the website is [www.usdoj.gov/crt/voting](http://www.usdoj.gov/crt/voting)

## **WHAT IS IN A CANDIDATE PACKET?**

(Click on each item below to access a copy of the referenced document)

### **A basic packet contains the following documents:**

- **A Candidate Checklist**
- **Non-Partisan Nomination Petitions in English and Spanish**  
(Petition should be two sided so that the circulator's affidavit appears on the back of the petition. Please duplicate whatever your potential candidates will need to meet the signature requirements in your community.)
- **Nonpartisan Nomination Paper**
- **Nomination Paper for Write-In Candidate**
- **Financial Disclosure Statement Form in English and Spanish**  
(The specifics of this form are dictated by local resolution or ordinance.)
- **Political Committee Statement of Organization**
- **\$500 Threshold Exemption Statement**
- **Campaign Finance Report Cover Sheets**
- **Campaign Finance Report Forms**
- **Large Contribution Notice**
- **Annual No Activity Statement**
- **Political Committee No Activity Statement**
- **Political Committee Termination Statement**
- **Campaign Finance Report Handbook of Instructions (provided by the League)**

## **WHAT IS IN AN INITIATIVE AND REFERENDUM PACKET?**

(Click on each item below to access a copy of the referenced document)

**A basic packet contains the following documents:**

- **Memo for Applicants of Initiative, Referendum or Recall Serial Number**
- **Application for Initiative or Referendum Petition Serial Number**
- **Initiative Petition in English and Spanish**  
(New petitions should be available from Secretary of State in July 2015. Out of state circulators must register with the Secretary of State.)
- **Referendum Petition in English and Spanish**  
(New petitions should be available from Secretary of State in July 2015. Out of state circulators must register with the Secretary of State.)
- **Initiative, Referendum and Recall Handbook (Provided by the Secretary of State's office)**
- **Political Committee Statement of Organization**  
(This form or the \$500 threshold exemption statement must be filed with the application and before any signatures are gathered.)
- **\$500 Threshold Exemption Statement**
- **Campaign Finance Report Handbook of Instructions (Provided by the League)**
- **Campaign Finance Report Cover Sheets**
- **Campaign Finance Report Forms**
- **Political Committee No Activity Statement**
- **Political Committee Termination Statement**

## WHAT IS IN A RECALL PACKET?

### **A basic packet contains the following documents:**

(Click on each item below to access a copy of the referenced document)

- [Memo for Applicants of Initiative, Referendum or Recall Serial Number](#)
- [Application for Recall Petition Serial Number](#)
- [Recall Petition in English and Spanish](#)  
(New petitions should be available from Secretary of State in July 2015. Out of state circulators must register with the Secretary of State.)
- [Initiative, Referendum and Recall Handbook \(Provided by the Secretary of State's office\)](#)
- [Political Committee Statement of Organization](#)  
(This form must be filed by the person or group applying for a recall petition and before any signatures are gathered regardless of the amount they plan to spend.)
- [Campaign Finance Report Handbook of Instructions \(Provided by the League\)](#)
- [Campaign Finance Report Cover Sheets](#)
- [Campaign Finance Report Forms](#)
- [Political Committee No Activity Statement](#)
- [Political Committee Termination Statement](#)

**These documents will only be used if a recall election is called. We suggest that they be distributed only after an election is called. Persons running in the recall election will need to comply with all of the campaign finance laws.**

- [Political Committee Statement of Organization](#)
- [\\$500 Threshold Exemption Statement](#)
- [Nomination Petition for Recall Election in English and Spanish](#)
- [Nomination Paper](#)
- [Nomination Paper for Write-In Candidate in a recall election](#)
- [Candidate Checklist](#)
- [Financial Disclosure Statement](#)

WORDS AND PHRASES LIST - LISTA DE PALABRAS Y FRASES

Vote for not more than \_\_\_\_\_

Put an "X" opposite the name of the candidate for which you wish to vote.

If you wish to vote for a person whose name is not printed on the ballot, write such name in the blank space opposite the office for which the person is a candidate and put an "X" in the square opposite the name so written.

Mayor

Council

Councilmen

Councilman

Primary

General

Election

City

Town

Ward

Aldermen

Ballot

County

Candidate

Vote

Exit

Sample Ballot

City Clerk

Office (Such as Office of Mayor)

Marshal

Vote por no más de \_\_\_\_\_

Marque con una "X" al lado del nombre del candidato por el cual usted desea votar.

Si usted desea votar por una persona cuyo nombre no aparece impreso en la boleta, escriba dicho nombre en el espacio en blanco que se encuentra al lado del cargo para el cual él es candidato y marque una "X" en el pequeño cuadrado al lado del nombre escrito.

Alcalde

Concjo

Concejales, Miembros del Concejo Municipal

Concejal

Primarias

Generales

Elecciones

Ciudad

Pueblo

Distrito

Corregidores

Boleta, Cédula

Condado

Candidatos

Vote Aquí

Salida Special

Especiales

Modelo de boleta

Secretario (male); Secretaria (female) Municipal

Cargo

Oficial de las Elecciones

### NUMBERS - NUMEROS

one	uno	seventeen	diecisiete
two	dos	eighteen	dieciocho
three	tres	nineteen	diecinueve
four	cuatro	twenty	veinte
five	cinco	twenty-one	veintiuno
six	seis	twenty-two	veintidós
seven	siete	twenty-three	veintitrés
eight	ocho	twenty-four	veinticuatro
nine	nueve	twenty-five	veinticinco
ten	diez	twenty-six	veintiseis
eleven	once	twenty-seven	veintisiete
twelve	doce	twenty-eight	veintiocho
thirteen	trece	twenty-nine	veintinueve
fourteen	catorce	thirty	treinta
fifteen	quince	thirty-one	treinta y uno
sixteen	dieciseis		

### THE MONTHS - LOS MESES

January	enero	July	julio
February	febrero	August	agosto
March	marzo	September	septiembre
April	abril	October	octubre
May	mayo	November	noviembre
June	junio	December	diciembre

### DAYS - DIAS

Monday	lunes	Friday	viernes
Tuesday	martes	Saturday	sabado
Wednesday	miércoles	Sunday	domingo
Thursday	jueves		

# Common Municipal Election Terminology

**Note: This Glossary is intended for general reference only, it is not intended to be a final or legal document. Always check with your attorney and the statutes before making a final decision.**

**\$500 threshold exemption statement** – A statement required to be filed by a candidate and political committees that affirms that the committee intends to receive and/or expend less than \$500.

**All-mail ballot election** - Any election held only by mail.

**Alternative expenditure limit (same as Home Rule Option)** - By voter approval every four years, allows a community to determine locally what its spending limits will be rather than the formula-based limit imposed by the State of Arizona.

**ARS** – Arizona Revised Statutes.

**At-large** – An elected official that is elected by and represents the electors of an entire municipality, rather than a specific district or ward.

**Ballot** - Any material on which votes may be cast for candidates or measures.

**Ballot language** – The written measure, issue or question or names of candidates that appear on the ballot.

**Ballot to be verified** – A ballot that has been completed by a voter that is not listed on the precinct register. A county recorder must verify that the voter is a qualified elector within the precinct before being counted. No longer a term used by the state; ballots to be verified will now be referred to as “provisional ballots”.

**Board worker** – A member of an election board that has received instruction in and has passed a written examination on election law and procedures.

**Bond election** – An election that is required prior to the issue of any municipal bonds. Allows qualified electors of a municipality to authorize issuance of municipal bonds.

**Call of election** - Usually the first formal action taken by Council setting forth the date and reason for an election; and giving the dates for action by the public, for example the dates for filing of specified paperwork and registering to vote.

**Campaign contribution** – Any gift, subscription, loan, advance or deposit of money or anything of value made for the purpose of influencing an election.

**Campaign finance report** - A report required to be filed by candidates running for office listing expenditures and revenues.

**Campaign signs** – Printed material displayed publicly with the purpose of influencing an election.

**Candidate** - A person who is qualified and has filed to run for elected office.

**Candidate committee** – A political committee designated and authorized by a candidate.

**Candidate packet** - All materials required by law that a candidate must file to run for office including:

- Nomination paper
- Nomination petition
- Financial Disclosure Statement
- Statement of Organization as a Political Committee or a
- \$500 Threshold Exemption Statement

**Canvass** – The official results of the election that are maintained as public record of the election. The official canvass must contain specified information under ARS § 16-646.

**Certificate of election** – An official document signed by the city or town clerk that declares that the person receiving the highest number of votes cast is the person chosen to fill that office.

**Certificate of nomination** – A letter that is given after the canvass of primary election results to the candidate, or candidates if more than one candidate is necessary, that has received the most votes. The document entitles the candidate to have his or her name placed upon the official ballot at the ensuing election as a nominee for the office.

**Challenge** – The act of questioning whether or not an elector is qualified to vote or sign a petition, or whether a candidate meets the qualifications set forth for office.

**Charter** - A written instrument that creates and defines powers, rights and privileges for a specific jurisdiction.

**Charter city** – A municipality with a population over 3,500 that has adopted a document known as a charter, which is similar to a constitution for a city, which outlines the basic governing procedures for the city. A charter city has more flexibility to delineate governing procedures for the city, rather than relying on the procedures outlined in Arizona law.

**Conflict of interest** – When an issue relating to a person’s or a person’s relatives’ private interests interferes in the course of the person’s professional duty. Arizona requires public officers and employees to declare when a conflict of interest exists. Arizona’s conflict of interest law is located in ARS § 38-501 through 38-511.

**Consolidated election dates** – Dates established by state law on which all elections are required to be held. Elections must occur on one of four dates: the second Tuesday in March; the third Tuesday in May; the tenth Tuesday before the first Tuesday after the first Monday in November; or the first Tuesday after the first Monday in November. General law cities and towns must hold regular candidate elections in conjunction with the State election held in August and November in even-numbered years.

**Constituent** - A person served by an elected official, normally a voter or resident.

**Councilmember-at-large** - A councilmember that is elected by and represents the electors of an entire municipality, rather than a specific district or ward.

**Deadline** – A set time by which something must be done.

**Debt limit** - The maximum amount of debt that a governmental unit may incur under constitutional requirements.

**Disclosure** – The act of making something known to the public. Financial disclosure for elected officials is governed by ARS § 38-541 through 38-545.

**Early ballot** – The ballot used in early voting; required to be identical to the regular official ballot, except that it must be printed or stamped with the word “early.”

**Early voting** - A method by which a voter may cast a ballot other than at the polls on election day, either by mail or dropping off their ballot to a designated location prior to or on election day.

**Election board** – Officials appointed to ensure that all who are entitled to vote are permitted to do so and to prevent those who are not qualified to vote from voting. For municipal elections, election board membership is specified in ARS § 9-825.

**Election district** –The state, any county, city, town, precinct or other political subdivision or a special district which is not a political subdivision, which is authorized by statute to conduct an election and which is authorized or required to conduct its election in accordance with Title 16.

**Election fraud** – The act of deliberate deception to unlawfully influence the results of an election.

**Election petition** - The documents required by law containing the necessary signatures to place a candidate's name or a measure on the ballot.

**Electioneering** - Any literature or action attempting to win votes in an election.

**Elector** – An individual qualified to vote. Also referred to as a voter.

**Expenditure limitation election** – An election that is required prior to adopting a permanent base adjustment or alternative to the state-imposed expenditure limit also known as the “Home Rule Option”. The alternative expenditure limit, or “Home Rule Option,” must be approved by a majority of qualified electors in a regular election and must be reauthorized every four years. The permanent base adjustment does not need to be reauthorized.

**Exploratory committee** – A political committee formed for the purpose of determining whether an individual will become a candidate or not.

**Form of government** – The way in which a municipality’s governing structure is established. Different forms of government include the mayor-council, weak mayor, strong mayor, commission or council-manager form of government.

**Franchise election** – An election that is required prior to a municipal corporation granting a franchise for a public utility. The franchise must be approved by a majority of the qualified electors voting at the election.

**General election** – For general law cities and towns, an election held on the first Tuesday after the first Monday in November in even numbered years. Charter cities may hold their general election on other consolidated election dates.

**General law city or town** – A municipality that has not adopted a city charter and must comply with the general provisions of Arizona law on city and town government and structure.

**Home Rule Option (Same as alternative expenditure limit)** - Allows a community to determine locally (by voter approval every four years) what its spending limit will be rather than using the formula-based limit imposed by the State of Arizona.

**Incumbent** - A person currently holding office.

**Initiative** - The people's right to initiate a measure, issue or question to be voted on by the people. To place an initiative on the ballot, petitions must be filed with a specified number of signatures. Petition signature requirements vary depending on the level of government.

**Initiative election** – The election at which a measure, issue or question placed on the ballot by the electors is decided.

**Majority** - A number greater than one half.

**Nomination paper** – The form filed with the appropriate office (ie. city or town clerk) by a person wishing to declare his or her intent to become a candidate for a particular political office.

**Nomination petition** – The form or forms used for obtaining the required number of signatures of qualified electors which is circulated by or on behalf of the person wishing to become a candidate for a political office.

**Non-partisan** - Representing no political party.

**Notice of election** - A published notice to the voters on date, time, location and purpose of an upcoming election.

**Oath of office** - A sworn declaration to uphold the law. (ARS 38-231).

**Ordinance** - An enforceable municipal law, statute or regulation that applies to all citizens within that municipality; penalty provisions may apply.

**Overlapping term** – A situation when the term of one elected office runs at the same time for part or all of the term of another elected office.

**Partisan** - Supporter of a particular political party.

**Penal provision** – Punishment for breaking a law or ordinance.

**Petition** – A form used to place a candidate, measure, issue or question on a ballot. Must receive the required number of signatures to qualify for the ballot.

**Political committee** – A committee formed to support or oppose any candidate, measure, issue or question.

**Poll** – Where an elector goes to vote.

**Poll list** - A list of persons, numbered in the order they vote. This list indicates the number of persons voting at each precinct

**Polling place** - The designated location within a precinct electors go to vote.

**Post-election** – Period after an election takes place. Provisions of Arizona law govern post-election procedures and requirements.

**Precinct** – A geographically defined voting district established by a county.

**Precinct register** - A list prepared by the County Recorder, of all qualified electors in each precinct for a specific election. Names are in alphabetical order, and information includes party preference, registration date and residential address. Electronic Precinct Registers also include mailing addresses, telephone numbers, birth date, occupation and 4-year voting history. The original copy is signed by the voter when they obtain a ballot and this becomes the signature roster.

**Pre-election** - Period before an election takes place. Provisions of Arizona law govern pre-election procedures and requirements.

**Presidential election** – Election that occurs every four years on the first Tuesday after the first Monday in November to select the President.

**Primary election** – Election held prior to a general election to nominate candidates for office.

**Proposition** - A proposed law, revision or amendment submitted to the voters at an election for approval or rejection.

**Public Officers Financial Disclosure Statement** – A form that all elected public officers are required to submit annually relating to the employment, business, property and investment interests, debt, gifts and finances of that officer and the officer's household. Cities and towns have their own form and do not use the state financial disclosure statement.

**Publicity pamphlet** – Document that is required to be mailed to each household with a registered voter that contains information on each proposed measure or question on the ballot, including financial impacts, if any, and arguments for and against.

**Qualified elector** - A person that is properly registered to vote and who is a resident of the designated area (i.e. county, city, town, district, ward or precinct) at a specific time.

**Recall** - Procedure to remove an elected official from office by a vote of the people through an election process before the end of the official's term.

**Recall petition** - The documents required by law containing the necessary signatures to place a recall of an incumbent on the ballot.

**Recall election** – The election at which voters decide whether or not to retain an elected official in office before the end of the official's term.

**Recount** - A superior court ordered action upon governing board certification of facts; usually because of a close election outcome to open the official returns and recount the ballots for a particular contest.

**Referendum** - The right of the people to refer legislation or ordinances passed by an elected body to a vote of the people through an election process for approval or denial. To place a referendum on the ballot, petitions must be filed with a specified number of signatures. Petition signature requirements vary depending on the level of government.

**Referendum election** – The election at which voters are asked to approve or deny legislation or an ordinance that has been passed by an elected body and has been ordered to the ballot by a petition of electors.

**Runoff election** – Another name for a general election.

**Sample ballot** – A ballot that is mailed to each household with a registered voter prior to an election which contains the candidates' names, measures, questions and propositions as they would appear on the actual ballot. May contain information regarding the voter's polling place. The mailing of sample ballots is optional for cities and towns.

**Signature roster** - The original precinct register, signed by the elector.

**Special election** – Election held in conjunction with a recall or to decide a certain issue and held for only those specific purposes. (Must conform to consolidated elections dates)

**Standing political committee** – A political committee that is active in more than one reporting jurisdiction in the state for more than one year, files a statement of organization, and is any of the following: a separate fund, a political party, a committee organized for the purpose of making independent expenditures or a political organization.

**Statement of organization** – Statement that is required to be filed for each political committee that intends to accept contributions or make expenditures of more than \$500. Must contain information as specified in ARS § 16-902.01.

**Tally** – Any of the following: a total count of the votes for each candidate and for each question, a reckoning of the number of ballots issued to the number of ballots voted and counted, or the method used when counting paper ballots; the mark representing each vote, by a set of four short vertical lines crossed by a diagonal fifth line commonly used for numbering things in fives.

**Tally board** – A board that takes custody of the ballots from the closing of the polls until the tally of the ballots is completed. Membership and duties of the board are described in ARS § 16-531.

**Term** – The amount of time for which a person was elected or appointed to hold office.

**Term limit** – The maximum amount of time for which an officer may serve. Term limits may be imposed by charter or state law. Not available to general law cities or towns.

**Vote by mail** – The process of receiving a ballot in the mail, voting and returning the completed ballot in the mail or returning the completed ballot on election day at a polling place. Can be done by either requesting an early ballot or in an all-mail election.

**Voter** – An individual meeting the qualification to vote. Also referred to as an elector.

**Voter list** – A list prepared by each county recorder using county voter registration rolls for an election conducted under state law by a political subdivision. (ARS 16-172).

**Voter registration form** – A form provided by the Secretary of State used in the registration of electors.

**Write-in candidate** – A candidate whose name does not appear on the ballot but is qualified to have their name written on the ballot by the elector when they vote. Write-in candidates are required to file a nomination paper within forty days prior to the election.